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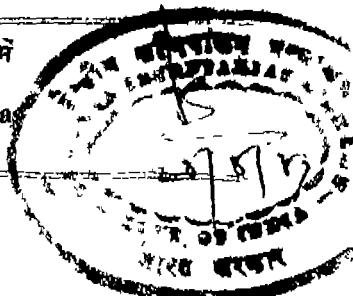
No. 31] NEW DELHI, SATURDAY, AUGUST 1, 1987/SRAVANA 10, 1909

इस भाग में भिन्न पृष्ठ संख्या वाली जाती हैं जिससे कि यह भास्तव संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as
a separate compilation

भाग II—खण्ड ३—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)



(रक्त मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों हारा जारी किए गए सांबिधिक जावेश और अधिसूचनाएँ
Statutory Orders and Notifications issued by the Ministries of the Government of India (other than
the Ministry of Defence)

विस मंत्रालय

(राजस्व विभाग)

नई दिल्ली, ३ जून०८८७, १९८७

आदेश

का था, १९४०—आदेशकर अधिनियम, १९६१ (१९६१ का ४३)
की धारा १९३ के परन्तुक के खंड (ii) द्वारा प्रदत्त शब्दियों का
प्रयोग करते हुए, कन्दीय सरकार एवं द्वारा उक्त खंड के प्रयोजनार्थ
महानगर टेलिकोन निगम, नि, नई दिल्ली द्वारा जारी किए गए
“७ वर्षीय-१५% आरक्षित विमोच्य अम्परियनीय टेलिफोन बांड टी-
८६ श्रृंखला—प्रथम नियम” को विविदित करती है।

वर्णन के द्वारा द्वारा के अन्तरण के मामले में पृष्ठांकन अथवा वितरण
द्वारा उक्त परन्तुक के अन्तर्गत नाम तभी न्वीकर्य होगा यदि अन्तरिती
इस प्रकार के अन्तरण श्रोत्र वितरण से ६० दिनों की अवधि के भीतर
महानगर टेलिकोन निगम नि, नई दिल्ली का रजिस्टर्ड डाक द्वारा सूचित
हो।

[ग ७४१५ (का गे २७५/१०८/८६-प्रा. क. व.)]

वा. नागराजन निदेशक

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 3rd July, 1987

INCOME-TAX

S.O. 1940—In exercise of the powers conferred by clause
(ii) of the proviso to Section 193 of the Income-tax Act,
1961 (43 of 1961), the Central Government hereby specifies
the “7-Year-14 per cent Secured Redeemable Non-Convertible
Telephone Bonds—T-86 Series—First Issue” issued by the
Mahanagar Telephone Nigam Limited, New Delhi for the
purpose of the said clause :

Provided that the benefit under the said proviso shall be
admissible in the case of transfer of such bonds by endorse-
ment or delivery, only if the transferee informs the Mahanagar
Telephone Nigam Limited by registered post within
a period of sixty days of the transfer by endorsement and
delivery.

[No. 7415 (T No 275/108/86-JTB)]

B. NAGARAJAN Director

(आधिक कार्य विभाग)

(बैंकिंग प्रभाग)

सर्ट बिली 13 जुलाई, 1987

का आ 1941—बैंककारी विभिन्नमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय इकाइ, भारतीय रिजर्व बैंक की सिफारिश पर, एकददारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के उत्तराधिकारी 30 मई, 1988 तक की ओर अवधि के लिए यूनाइटेड बैंक ऑफ इंडिया, कलकत्ता पर उम सीमा तक लागू नहीं होगी जब तक विद्युतका मानविक नीती के रूप में मैमसे शीट मैटल इंस्ट्रीज लि. में इसके शेयरों की विभागिता से है।

[मंख्या 15/8/87-बी. ओ. III]

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 13th July, 1987

S.O. 1941.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), i.e. Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to the United Bank of India, Calcutta for a further period till 30th May, 1988 in so far as they relate to its holding of shares of M/s. Bharat Sheet Metal Industries Ltd pledged.

[No. 15/8/87-B.O. III]

का आ 1942—बैंककारी विभिन्नमन अधिनियम, 1949 (1949 का 19) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग गरने हुए, केन्द्रीय मरकार, भारतीय रिजर्व बैंक की सिफारिश पर, एकददारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के पावध 8 जून, 1988 तक की अगली अवधि तक यूनाइटेड बैंक ऑफ इंडिया, कलकत्ता पर उम सीमा तक लागू नहीं होगी जब तक इनका मानविक नीति इंस्ट्रीशल प्रा. लि. के शेयरों की उमस्की व्याख्या से है।

[एक म. 15/9/87-बी. ओ.-III]

[प्राण नाथ, प्रबन्ध मन्त्रिवर्ष]

S.O. 1942.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949 (10 of 1949), i.e. Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to the United Bank of India, Calcutta for a further period till 8th June, 1988 insofar as they relate to its holding of shares in the Luz Electricals Pvt. Ltd.

[No. 15/9/87-B.O. III]

PRAN NATH, Under Secy.

वाणिज्य मंत्रालय

सर्ट बिली, 24 जुलाई, 1987

आदेश

का आ 1943.—भारत के नियंत्रित व्यापार के विकास के लिए, एक मरकार के पूर्व वाणिज्य और नागरिक पूर्ति मंत्रालय की प्रमाणन

साबून में अधिकारी व्यापारना मा का आ. 1015, तारीख 19 अप्रैल, 1980 का बंशोऽनन करने के लिए कलिपय प्रस्तावनामें नियंत्रित (क्रान्तिकी नियंत्रण और नियंत्रण) नियम, 1964 के नियम 11 के उपनियम (2) की व्योनादुगार भारत के ग्राम, भाग II चौथा-3 'उप चौथा (ii), तारीख 24 जूनवरी, 1987 में प्रकाशितभारत मरकार के वाणिज्य मंत्रालय द्वारा प्रधिमूच्चना स. का आ 187, तारीख 24 जूनवरी 1987 में प्रकाशित की गई थी;

और उत्त व्यक्तियों से ग्रामपत्र में उक्त अधिकार के प्रकाशन के 45 दिन के भीतर उक्त प्रस्तावना द्वारा ब्राह्मण या गुप्ताव मार्गे गए थे तिनके उम्मे प्रभावित होने की मानवना थी;

और उक्त ग्रामपत्र की प्रसिद्धि, 30 जूनवरी, 1987 को जनना की उपलब्ध करा दी गई थी,

और केन्द्रीय मरकार ने प्रस्तावनाओं के मंड़प में जनना से प्राप्त आलोचों द्वारा सुनावने पर विश्वार कर लिया है;

प्रति । नियंत्रित (क्रान्तिकी नियंत्रण और नियंत्रण) अधिनियम, 1963, (1963 का 22) की धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, केन्द्रीय मरकार नियंत्रित नियंत्रण परियद् से परामर्श करने के पश्चात् प्रत्यनी यह ग्राम होने पर कि भारत के नियंत्रित व्यापार के लिए ऐसा करना व्यावधार और भवीचीन है, भारत मरकार के वाणिज्य मंत्रालय के आवेदन मा का आ 1015 तारीख 19 अप्रैल, 1980 में निम्नलिखित मंशोऽनन करती है अर्थात् —

उपाधन

प्रमाणन साबून के लिए व्यक्ति विलिंग

1. प्रमाणन साबून को दो प्रकार से वर्गीकृत किया जाएगा अर्थात् माधारण प्रयोजन के लिए साबून तथा विशेष प्रयोजन के लिए साबून। माधारण प्रयोजन के लिए साबून की विशेषनाओं के आधार पर श्रेणी-I, श्रेणी-II तथा श्रेणी-III के स्वरूप में श्रेणीबद्ध किया जाएगा। पारदर्शी/मीमरीन साबून, कारबोनिक साबून, व्यावधारस्त साबून, आयुर्वेदिक साबून और बज्जों के लिए साबून विशेष प्रयोजन के लिए साबून होंगे।

2. साबून मजबूत, विशिष्ट, गंध, अच्छी सकार्त तथा आग देने वाली विशेषताओं वाले होंगे। साबूनों में रंगीन पदार्थ, परिस्कर, धोषधि, अन्यधिक व्यापार व्यापार आदि होंगे, जो साबून के प्रकार पर निम्नर होंगे, जो त्वचा के लिए हानिहीन होगा। साबून का आकार, आकृति, रंग तथा भार के लिए और विकेता के द्वारा दुग करार के अनुभाव होगा।

3. प्रमाणन साबून नीचे की सारणी में दी गई अपेक्षाओं के प्रमुख होगा।

4. पैकिंग, नियंत्रण परियद् हारा इस प्रयोजन के लिए अधिकारी मार्ग-दर्शन के अनुभाव की जाएगी।

5. प्रमाणन साबून के परेषण पर निम्नलिखित चिन्ह लगे होंगे :—

- (i) विनियमिता का नाम ;
- (ii) ब्राउंड नाम और रजिस्ट्रीकॉर्ट व्यापार चिन्ह, यदि कोई है ;
- (iii) साबून का प्रकार और श्रेणी,
- (iv) पैकिंग के समय शुद्ध भार,
- (v) वेच नम्बर या लाट संखा, कोड में या अन्यथा,
- (vi) विनिर्माण का वर्ष और मास, और
- (vii) विशेष सघटक, यदि कोई हो।

उक्त भादेश में—

(1) खंड 1 के उपखंड (3) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्—

(3)(क) गद्यीय भोज भ्रंशराईय मानकों को, 'ओर

(ख) इस आदेश के उपांच्च के अनुसार सागू न्यूनतम विनिर्देशों के अधीन रहने हुए केता स्थीर विक्रेता के बीच पाण संविदात्मक विनिर्देशों को, ऐसे प्रसाधन साबूती के लिए मानक विनिर्देशों के रूप में मान्यता देती है,

टिप्पणी— गर्वदा के प्रमुखान्ति नमूने पर प्राधारित होने की दृष्टि में नियंत्रकता अधिकरण को उसकी लिखित विशेषताएँ देगा।

(2) खंड-3 के स्थान पर, निम्नलिखित रखा जाएगा, अर्थात्—

"(2) इस आदेश की कीर्ति भी बात भावी वित्तीयों को भूमि, रासुड़ या वायु मार्ग द्वारा प्रमाधन साबूत के उन वास्तविक

नमूनों के नियंत्रण का लागू नहीं होगा, परन्तु यह तब कि ऐसे नमूनों का दोल पर्यान्त निश्चल मूल्य 500 रु. से अधिक नहीं तुमा।"

(3) खंड-3 के स्थान पर निम्नलिखित रखा जाएगा, अर्थात्—

"(3) इस आदेश में 'प्रमाधन साबूत' से पूरी तरह साबूतीकृत विल द्वारा विवार किया गया और या समागृहित और विषय कुम्हा सफेद या रगी, सुगवित तथा भ्रमुगवित मजबूत और विकनी प्रधारदर्शी या पारदर्शी टिकियों के रूप में परिरक्षकों भवित तथा उनके विना विषयादि, त्वचा के लिए हाति रहित प्रमाधन साबूत असिप्रेत है, जिसमें अच्छी मफाई तथा जाग देने वाली विशेषताएँ हों।"

(4) खंड-4 के पश्चात् निम्नलिखित उपांच्च और सारणी अन्तःस्थापित की जाएगी, अर्थात्

सारणी

| अम सं. विशेषताएँ | साधारण प्रयोगान | | | | | विशेष प्रयोगान के लिए साबूत | | | | |
|---|-----------------|--------|--------|----------|----------|-----------------------------|------------|---------------------|---------|-----------|
| | श्रेणी | श्रेणी | श्रेणी | श्रेणी-1 | श्रेणी-2 | कार्बोनिक औषधियुक्ति | आयुर्वेदिक | मध्यों के लिए साबूत | | |
| | 1 | 2 | 3 | 4 | 5 | प्रतिशत | प्रतिशत | प्रतिशत | प्रतिशत | प्रतिशत |
| 1. कुल वसा पदार्थ (न्यूनतम) | 76.0 | 70.0 | 60.0 | 70.0 | 70.0 | 60.0 | 70.0 | 63.0 | 78.0 | |
| 2. कार्सिक शार से मुक्त | | | | | | | | | | |
| (अधिकतम) | 0.05 | 0.05 | 0.05 | 0.05 | 0.05 | 0.05 | 0.05 | 0.10 | 0.10 | 0.03 |
| 3. रोजिन घम्ल (अधिकतम) | 3.0 | 0.7 | 2.0 | 1.0 | 3.0 | 5.0 | 3.0 | 3.0 | 3.0 | कुछ नहीं। |
| 4. अल्कोहॉल में घुसनशील पदार्थ (अधिकतम) | 2.5 | 5.0 | 0.0 | 2.5 | 7.0 | 6.0 | 3.0 | 5.0 | 2.0 | |
| 5. फ्लोराइड (अधिकतम) | 1.5 | 1.3 | 1.5 | 0.8 | 1.0 | 1.0 | 1.5 | 1.5 | 1.0 | |

टिप्पणी— 1. गिलसरीन साबूत के लिए, न्यूनतम गिलसरीन की प्रतिशत श्रेणी-1 के लिए 5 प्रतिशत तथा श्रेणी-2 के लिए 2 प्रतिशत होगी।

2. कार्बोनिक साबूत के लिए केसिलिक अम्ल प्रतिशत तथा अधिकतम 4 प्रतिशत से अधिक नहीं होगी।

3. औषधियुक्त साबूत के लिए मक्यूरिक आयोडाइड की प्रतिशत तथा अधिकतम 1.1 प्रतिशत से अधिक नहीं होगी।

4. मध्यों के लिए साबूत—

(क) कार्बोनिक अम्ल, रोजिन तथा कफरी में मुक्त होती।

(ख) मुक्त लार्बेट घम्ल अधिकतम 0.5 प्रतिशत से अनधिक नहीं होगा।

(ग) नोहा और नांबा और अम्ल: 10 प्रीपोएम तथा 3 प्रीपोएम से अधिक नहीं होगा।

[फाइल स. 6(18)/86-६, मार्ट एप्रैल १९८७]

प्रत. नं. ३८८, दृष्टिकृत, नियमग

MINISTRY OF COMMERCE

New Delhi, the 24th July, 1987

ORDER

S.O. 1943—Whereas for the development of the export trade of India certain proposals for amending the Notification of the Government of India in the late Ministry of Commerce and Civil Supplies No SO 4015, dated 19th April 1980 relating to Toilet Soaps, were published as required by sub-rule (2) of rule 11 of the Export (Quality Control and

Inspection Rules, 1964 under the Notification of the Government of India in the Ministry of Commerce No SO 187, dated the 24th January, 1987 published in the Gazette of India, Part-II Section 3, Sub-section (ii), dated the 24th January, 1987.

And whereas the objections or suggestions with respect to the said proposal were invited from any person likely to be affected thereby within 45 days of the publication of the said Order in the Official Gazette.

And whereas the copies of the said Gazette were made available to the public on 30th January, 1987.

And whereas the objections and suggestions received from the public on the said proposals have been considered by the Central Government.

Now, therefore, in exercise of the powers conferred by section 6 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government after consulting the Export Inspection Council, being of opinion that it is necessary and expedient so to do for the export trade of India, hereby makes the following amendment in the Order of the Government of India in the Ministry of Commerce No. SO 1015, dated the 19th April, 1980, namely;

ANNEXURE

Minimum specifications for Toilet Soaps

1. The toilet soaps shall be classified into two types, namely general purpose soaps and special purpose soaps. The general purpose soaps, depending on their characteristics, shall be graded as Grade-I, Grade-II and Grade-III. The trans-palmitin/glycerine soaps, carbolic soaps, medicated soaps, ayurvedic soaps and baby soaps shall be the special purpose soaps.

2. The soaps shall be of firm texture, non-characteristic odours having good cleaning and lathering properties. The soaps may also contain colouring matters, preservatives, medicaments, super fattening agents etc. depending upon the type of the soaps, which shall be non-injurious to skin. The size, shape, colour and weight of the soap shall be as agreed to between buyer and seller.

3. The toilet soaps shall comply with the requirements as given in the Table below.

4. The packaging shall be as per the guidelines laid down for the purpose by Export Inspection Council.

5. Consignment of toilet soap shall bear the following markings :

- (i) Name of manufacturer;
- (ii) Brand name and registered trade mark, if any;
- (iii) Type and grade of the soap;
- (iv) Net weight when packed;
- (v) Batch number or lot number in code or otherwise;
- (vi) Year and month of manufacture; and
- (vii) Special ingredients, if any.

In the said Order—

(1) In clause 1 for sub-clause (3), the following shall be substituted, namely :

"(3) recognises—

(a) national and international standards, and

(b) contractual specifications as agreed to between the buyer and the seller, subject to the minimum specifications as applicable as per Annexure to this Order, as the standard specification for such toilet soaps;

Note : In the event of contract being based on the approved sample the exporter shall furnish written down characteristics of the same to the Agency".

(2) For clause 2, the following shall be substituted, namely :—

"(2) Nothing in this Order shall apply to the export by land, sea or air of bona fide trade samples of toilet soaps to the prospective buyers, provided that free on board value of such samples do not exceed Rs. 500."

(3) For clause 3, the following shall be substituted, namely :—

"(3) In this Order, toilet soaps shall mean toilet soaps thoroughly saponified, milled and or homogenized or plodded, white or coloured, perfumed or unperfumed, opaque or transparent cakes of firm and smooth texture with or without preservatives and medicaments, non-injurious to skin having good cleaning and lathering properties."

(4) After clause 4, the following Annexure and Table shall be inserted, namely :—

TABLE

| S.No. | Characteristics | General Purposes | | | Special purpose soaps | | | | | |
|-------|------------------------------------|------------------|-------|--------|-----------------------|------------|----------------------|-----------|-----------|-------|
| | | Gr. I. | Gr.II | Gr.III | Trans par- | Glycerine/ | Carbolic (Medicated) | Ayurvedic | Baby soap | |
| | | | | | ent Gr.I. | Gr.II | | | | |
| 1. | Total fatty matter (Min.) | 76.0% | 70.0% | 60.0% | 70.0% | 60.0% | 60.0% | 76.0% | 65.0% | 78.0% |
| 2. | Free caustic alkali (max.) | 0.05% | 0.05% | 0.05% | 0.05% | 0.05% | 0.5% | 0.10% | 0.10% | 0.03% |
| 3. | Rosin acids (Max.) | 3.0% | 7.0% | 7.0% | 1.0% | 3.0% | 5.0% | 3.0% | 3.0% | Nil |
| 4. | Matter insoluble in alcohol (Max.) | 2.5% | 5.0% | 6.0% | 2.5% | 7.0% | 6.0% | 3.0% | 5.0% | 2.0% |
| 5. | Chlordides (Max.) | 1.5% | 1.5% | .5% | 0.8% | 1.8% | 1.0% | 1.5% | 1.5% | 1.0% |

Notes : 1.* For glycerine soaps, the minimum glycerol percentage shall be 5% for Gr. I. and 2% for Gr. II.

2. For carbolic soaps, the cresyllic acid percentage shall not exceed 4% Max.

3. For medicated soaps, mercuric iodide percentage shall not exceed 1% max.

4. For baby soaps—

(a) shall be free from carbolic acid, rosin and gr.

(b) free carbonate alkali shall not exceed 0.5% max.

(c) Iron content and copper content shall not exceed 10 ppm and 3 ppm respectively.

Union) Rules, 1976, the Central Government hereby notifies the Indian Drugs & Pharmaceuticals Limited, Virbhadra, Rishikesh (A Govt. of India Undertaking) the 80 per cent staff whereof have acquired a working knowledge of Hindi.

[No. E-11012(2)/87-Hindi]
D. V. MENDIRASTA, Under Secy.

स्थान्य और परिवार कल्याण भवनालय

मई विली, 9 जुलाई, 1987

का आ. 1946—केंद्रीय सचार, भारतीय चिकित्सा केंद्रीय परिषद अधिनियम, 1970 (1970 का 48) को धारा 14 की उपधारा (2) द्वारा प्रदत्त शक्तिया का प्रयोग करते हुए, भारतीय चिकित्सा केंद्रीय परिषद से परामर्श करते के पश्चात् उक्त अधिनियम की दूसरी अनुमूली में निम्नलिखित और संशोधन करती है, अर्थात्—

उक्त अनुमूलों के भाग 1 में, हिमाचल प्रदेश विश्वविद्यालय, शिमला से भवधित कम मध्या 24 के सामने स्तम्भ 2, 3 और 4 में विद्यमान प्रविष्टियों के पश्चात् अस्थः निम्नलिखित और प्रविष्टिया अन्तःस्थापित की जाएंगी, अर्थात्—

| 1 | 2 | 3 | 4 |
|-------------------------------------|--|-------------------------------|--|
| “हिमाचल प्रदेश विश्वविद्यालय, शिमला | “भारतीय औषध जी, ए. एम. एस कैडेक्स 1886”का विवरण और शब्द विवित्सा | परीक्षा उत्तीर्ण करके प्राप्त | “G.A.M.S. Degree obtained by passing examination upto 1986 only” |
| शिमला | और आयुर्वेदाचार्य” में स्नातक | जपाधि” | |

[संख्या वी. 26015/9/86 ए.ई.
आर.एग. मायर, अवर सचिव]

टिप्पणी: भारतीय चिकित्सा केंद्रीय परिषद अधिनियम, 1970 (1970 का 48) की दूसरी अनुमूली में पश्चात्यर्ती संशोधन निम्नलिखित द्वारा किए गए।

1. का.आ. सं. 4068 तारीख 30 नवम्बर, 1979
2. का.आ. स 2635 तारीख 18 सितम्बर, 1980
3. का.आ. न 2313, तारीख 20 अगस्त, 1981
4. का.आ. स. 2314, तारीख 22 अगस्त, 1981
5. का.आ. न 137, तारीख 24 दिसम्बर, 1981
6. का.आ. न 638, तारीख 25 जनवरी, 1982
7. का.आ. म. 861 तारीख 3 फरवरी, 1982
8. का.आ. न 973, तारीख 20 फरवरी, 1982
9. का.आ. म 354 (अ) तारीख 6 मई, 1983
10. का.आ. सं. 3550, तारीख 5 मिस्रम्बद, 1983
11. का.आ. म 804(ग), तारीख 11 नवम्बर, 1983
12. का.आ. म 462(अ), तारीख 23 जून, 1984
13. का.आ. म 1911, तारीख 17 यूनियन, 1985
14. का.आ. म 2745, तारीख 29, मई, 1985
15. का.आ. म 3404, तारीख 5 जूनाई, 1985
16. का.आ. म 4057 तारीख 14 अगस्त, 1985
17. का.आ. म 5603 तारीख 3 दिसम्बर, 1985
18. का.आ. म 5671, तारीख 5 दिसम्बर, 1985
19. का.आ. म 847 तारीख 17 फरवरी, 1986
20. का.आ. म 1832 तारीख 16 अप्रैल, 1986
21. का.आ. म 627, तारीख 3 फरवरी, 1987
22. का.आ. म. 760 तारीख 25 फरवरी, 1987
23. का.आ. म. 1030 तारीख 30 मार्च, 1987

MINISTRY OF HEALTH AND FAMILY WELFARE New Delhi, the 9th July, 1987

S.O. 1946—In exercise of the powers conferred by sub-section (2) of section 14 of the Indian Medicine Central Council Act, 1970 (48 of 1970), the Central Government, after consulting the Central Council of Indian Medicine, hereby makes the following further amendment in the Second Schedule to the said Act, namely :—

In Part I of the said Schedule against serial number 24C relating to the Himachal Pradesh University, Simla, under columns 2, 3 and 4, after the existing entries, the following further ones shall respectively be inserted, namely :—

| 1 | 2 | 3 | 4 |
|-------------------------------------|---|----------|--|
| “Himachal Pradesh University, Simla | “Graduate of Ayurvedic Medicine and Surgery | G.A.M.S. | Degree obtained by passing examination upto 1986 only” |

[No. V. 26015/9/86—AE]

R. S. MATHUR, Under Secy.

NOTE : The Second Schedule to the Indian Medicine Central Council Act, 1970 (48 of 1970) has been subsequently amended, vide :—

- (1) S.O. No. 4068, dated the 30th November, 1979.
- (2) S.O. No. 2635, dated the 18th September, 1980.
- (3) S.O. No. 2313, dated the 20th August, 1981.
- (4) S.O. No. 2314, dated the 22nd August, 1981.
- (5) S.O. No. 137, dated the 24th December, 1981.
- (6) S.O. No. 638, dated the 25th January, 1982.
- (7) S.O. No. 661, dated the 2nd February, 1982.
- (8) S.O. No. 973, dated the 20th February, 1982.
- (9) S.O. No. 354 (E), dated the 6th May, 1983.
- (10) S.O. No. 3550, dated the 5th September, 1983.
- (11) S.O. No. 804(C), dated the 11th November, 1983.
- (12) S.O. No. 462(E), dated the 23rd June, 1984.
- (13) S.O. No. 1911, dated the 17th April, 1985.
- (14) S.O. No. 2745, dated the 29th May, 1985.
- (15) S.O. No. 3404, dated the 5th July, 1985.
- (16) S.O. No. 4057, dated the 14th August, 1985.
- (17) S.O. No. 5603, dated the 2nd December, 1985.
- (18) S.O. No. 5671, dated the 5th December, 1985.
- (19) S.O. No. 832, dated the 17th February, 1986.
- (20) S.O. No. 1832, dated the 16th April, 1986.
- (21) S.O. No. 627, dated the 2nd February, 1987.
- (22) S.O. No. 760, dated the 25th February, 1987.
- (23) S.O. No. 1030, dated the 30th March, 1987.

(स्थान्य विभाग)

मई विली, 17 जुलाई 1987

का आ. 1947—भारतीय आयुर्वेद और अधिनियम 1956 (1956 का 102) की वारा 3 की उपाय (1) के छण्ड (क) के उत्तरात्म के अनुसरण में और यज्ञगत सचार के प्रथमण से केंद्रीय नगराकार ने दा यो पी. गुडा, निदेशक, स्थान्य और चिकित्सा सेवा (पी.आ. शिक्षा) का इस अधिकृतना के दारी किए गये की गारिके से भारतीय आयुर्वेद का विश्व नाम निर्देशित किया है।

धन: उक्त अधिनियम की धारा 3 की आधारा (1) के अनुसरण में केन्द्रीय सरकार भारत सरकार के भूमिके स्वास्थ्य संबंधी अधिसूचना संस्कार का आ. 138 (संस्का. 5-13/59-एम. पाई.) ग 9 अक्टूबर, 1960 में निम्नलिखित और संशोधित करनी है यथोन्—

उक्त अधिसूचना में “धारा-3 की उपधारा (1) के बाइ (क) के अधीन” निलिखित सीरीजे के अधीन कम संख्या 14 के सामने निम्नलिखित विशिष्ट अधीन आगे अधिनि—

डा. ओ. पी. गुप्ता निदेश, भारत स्वास्थ्य और पिकिन्स मेवा निकाय गिरावः
प्रधीनसंग्रह

[संस्का. वी.-11013/11/87--प्रम. ई. (पी.)]

(Department of Health)

New Delhi, the 17th July, 1987

S.O. 1947.—Whereas in pursuance of the provision of clause (a) of sub-section (1) of section 3 of the Indian Medical Council Act, 1956 (102 of 1956) and in consultation with the Government of Gujarat have nominated Dr. O. P. Gupta, Director of Health and Medical Service (Medical Education), to be a member of the Medical Council of India with effect from the date of issue of this Notification.

Now, therefore, in pursuance of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the late Ministry of Health, No. 2. 138 (No. 5-13/59-MI), dated the 9th January, 1960, namely—

In the said notification, under the heading “Nominated for clause (a) of sub-section (1) of section 3” against No. 14, the following entries may be inserted namely :—

14. Dr. O. P. Gupta,
Director of Health & Medical Service,
Medical Education,
Gandhinagar.

[No. V. 11013/11/87-ME(P)]

नई दिल्ली, 20 जुलाई, 1987

आदेश

का. आ. 1948.—केन्द्रीय सरकार ने भारत सरकार के स्वास्थ्य विभाग की अधिसूचना में, 16-30/61-एम. पाई. तारीख 26-7-1982 द्वारा निरेंद्र दिया है कि “प्रम. ई. गोकलद्वारा विश्वविद्यालय नं. अ.” चिकित्सा अधीन, भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) के प्रयोजनार्थ मान्यताप्राप्त चिकित्सा दीता होता है;

और हा. मोर्गन ट्रॉयोलेन अनियर जो उक्त अधेना रखते हैं, सत्समय कार्य को प्रयोजनार्थ क्रियियन अस्पताल, कासरगढ़ (पटा) उत्तर ग्र में संचर है;

अत केन्द्रीय सरकार उक्त अधिनियम की धारा 14 की उपधारा (1) के परन्तु के बाइ (ग) के प्रत्यरूप में

(1) दा वर्त तक की ओर अवधि को या

(2) तीसी अवधि को, जिसके द्वारा हा. मोर्गन ट्रॉयोलेन जूनियर डॉक्टर फिलिप्पन अस्पताल, कासरगढ़ (पटा) उत्तर प्रदेश में संचर है इसमें रो जो भी कम है, तीसी अवधि के रूप में विनियित करती है, जिस तक पूर्वोक्त डॉक्टर का चिकित्सा अधिकारी बीमिन होगा।

[मं. धी.-11016/12/84-एम. ई. (पी.)]

प्राप्त श्रोतुवासन, अपर भवित्व (प्रम. ई.)

New Delhi, the 20th July, 1987

ORDER

S. O. 1948.—Whereas by the notification of the Government of India in the Ministry of Health No. 16-30/61-MI, dated the 26-7-1962 the Central Government has directed that the medical qualification “M.D. University of Oklham (U.S.A)” shall be a recognised Medical qualification for the purpose of the Indian Medical Council Act, 1956 (102 of 1956).

And Whereas Dr. Morgan Troy Olen Jr. who possesses said qualification is for the time being attached to the Christian Hospital in Kasganj (Etah) Uttar Pradesh for the purposes of charitable work;

Now Therefore, in pursuance of clause (e) of the proviso to sub-section (1) of Section 14 of the said Act, the Central Government hereby specifies—

- (i) a further period upto two years or
- (ii) the period during which Dr. Morgen Troy Olen Jr. is attached to the said Christian Hospital in Kasganj (Etah) Uttar Pradesh whichever is less as the period to which the medical practice by the aforesaid doctor shall be limited.

[No. V. 11016/12/84-ME(P)]

R SRINIVASAN, Under Secy.

शहरी चिकित्सा भवनालय

नई दिल्ली, 7 जुलाई, 1987

का. आ. 1949.—केन्द्रीय सरकार भारत के राजपत्र, दिनांक 13 मार्च, 1976 (का. आ. 1053) की अधिसूचना का आगत उपायर कारते हुए और सरकारी स्थौर (प्रप्राधिकारी अधिभोगियों की वेद्यता) अधिनियम, 1971 (1971 का. 40) की धारा 3 द्वारा प्रदत्त शर्तियों का प्रयोग करते हुए निम्न आरणी के सन्दर्भ (1) में उल्लिखित अधिकारी को सरकार के राजपत्र अधिकारियों की पक्षि के सम्बुल्य अधिकारी होने के नाते, उक्त अधिनियम, प्रयोजनों के लिए मानदा अधिकारी नियुक्त करती है और वह भी निरेंद्र देती है कि उक्त अधिकारी उक्त आरणी के सन्दर्भ (2) में नियन्त्रित गरकारी स्थानों के संबंध में अपनी अधिकारियों की स्थानीय सीमाओं के भीतर उक्त अधिनियम के द्वारा या उक्त अधीन समर्त अधिकारी को प्रदत्त शक्तियों का प्रयोग और प्रभित्वीयत करत्यों का पालन करेगा।

सारणी

अधिकारी का पदाभिधान

सरकारी स्थानों के पर्वी और अधिकारियों की स्थानीय सीमाएं

1

प्रबन्धक,

नप राज्य क्षेत्र विल्ली स्थित

भारत सरकार मुद्रालय,

प्रबन्धक भारत सरकार मुद्रालय

(लैटर ब्रैम यूनिट),

(लैटर ब्रैम यूनिट) मिस्ट्री रोड, नई विल्ली

मिस्ट्री रोड, नई दिल्ली

के प्रशासनिक नियंत्रणाधीन सरकारी

स्थान, जिसमें भूमि और सत्रत भी

मन्त्रिभवित हैं।

[काइन. नं. 70/(2)/86-५-५]

नन्द शिंह, अपर भवित्व

MINISTRY OF URBAN DEVELOPMENT

New Delhi, the 7th July, 1987

S.O. 1949—In partial modification of notification dated the 28th February, 1976 (S.O. 1053) published in the Gazette of India, dated the 13th March, 1976 and in exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below being an officer equivalent to the rank of Gazetted Officers of the Government to be Estate Officers for the purposes of the said Act and further directs that the said officer shall exercise the powers conferred and perform the duties imposed, on Estate Officers, by or under the said Act, within the local limits of his jurisdiction in respect of the public premises specified in column (2) of the said Table.

THE TABLE

| Designation of the officer (1) | Categories of public premises and local limits of jurisdiction (2) |
|---|--|
| Manager, Government of India Press (Letter Press Unit), Minto Road, New Delhi | Public premises including land and Buildings under the administrative control of the Manager, Government of India Press (Letter Press Unit), Minto Road, New Delhi, situated in the Union Territory of Delhi |

[F. No. 70(2)/86A-5]
NATTU SINGH Under Secy
(उपमंत्री निदेशालय)

नई दिल्ली, 15 जुलाई, 1987

का. आ. 1950—केन्द्रीय मरकार, सरकारी स्थान (प्रधानिकारी वाले बखूबी) प्रधिनियम, 1971 (1971 का 40) की शरण से इस प्रदत्त अधिकारी वाले, जो मरकार का राजपत्रिन अधिकारी है, उक्त प्रधिनियम के प्रयोगने के लिए संघरा अधिकारी नियमन करती है, और यहां नियन्त्रण के लिए कुनै अधिकारी उक्त सामग्री के स्तंभ (2) में विनियाइट सरकारी रथानी की बाबत घपनी अधिकारिता की सीमाओं के भीतर उक्त प्रधिनियम द्वारा या उसके अन्तर्गत मरकार अधिकारी को प्रदत्त अधिकारी का प्रयोग करेगा, और अधिगेयितम संवधयों का पालन करेगा।

मार्गी

| प्रधिकारी का पदनाम | सरकारी स्थानों के प्रबंग और उमरी अधिकारिता स्थानीय भीमाना |
|--------------------|---|
|--------------------|---|

1

2

| | |
|---|--|
| महायाद-डीनियर, हैदरगाहाद केन्द्रीय उप प्रभाग III/I, हैदरगाहाद केन्द्रीय समाज III के, सो. नि. वि., हैदरगाहाद | हैदरगाहाद केन्द्रीय परिषद, के सा. नि. वि., हैदरगाहाद और सेप्टा निदेशालय, नई दिल्ली सभा हैदरगाहाद गढ़री संशुलन के या उसके द्वारा पृष्ठ पर लिए गए या उनके द्वारा नियन्त्रित अध्याधिकारित परिषद और जो उसके प्रधानमन्त्र नियंत्रण में रखे गए हैं |
|---|--|

[F. No. 21012/10/87-नि-IV]

जी. पर्स. गमन, उपमंत्री निदेशक

(Directorate of Estates)

New Delhi, the 15th July, 1987

S.O. 1950—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officer mentioned in column (1) of the Table below, being gazetted officer of Government to be Estate Officer for the purpose of the said Act, and further directs that the said officer shall exercise the powers conferred, and perform the duties imposed on the Estate Officer by or under the said Act within the limits of his jurisdiction in respect of the Public Premises specified in column (2) of the said Table.

THE TABLE

| Designation of the officer | Categories of public premises and local limits of his jurisdiction |
|--|--|
| 1 | 2 |
| Assistant Engineer, Hyderabad Central Sub-Division No. III/I Hyderabad Central Division III, C.P.W.D. Hyderabad. | Premises belonging to or taken on lease or requisitioned by or on behalf of Hyderabad Central Circle, CPWD, Hyderabad and Directorate of Estates, New Delhi and located within Hyderabad Urban Agglomeration, and which are placed under his administrative control. |

[F. No. 21012/10/87-Pol. IV]

V.S. RAMAN, Dy Director of Estates

नगर विभाग संचालय

नई दिल्ली 17 जुलाई, 1987

का. आ. 1951—राष्ट्रीय विमानपत्तन प्राधिकरण प्रधिनियम, 1985 (1995 का 64) के खंड 3 के उपांक-3 द्वारा प्रदत्त अधिकारी, का उपर्योग करते हुए, केन्द्रीय मरकार, विमानपत्तन नि. पर्स. जोशी (मेंटो-निवृत्त) को राष्ट्रीय विमानपत्तन प्राधिकरण में 4000-125-4500 रुपए, के अनुसूची "ब" बेनेफाइट में, उनके द्वारा पद का कार्यज्ञार संभालने की तारीख से तीन वर्ष की अवधि के लिए पूर्णकालिक सदृश्य (कार्मिक एवं प्रशासन) के रूप में नियुक्त करती है।

[मंत्रा. ए-11013/3/87-एन.ए.प.]

जे आर. नागपाल, अवर मण्डव

MINISTRY OF CIVIL AVIATION

New Delhi, the 17th July, 1987.

S.O. 1951—In exercise of powers conferred by sub-section 3 of Section 3 of the National Airports Authority Act, 1985 (64 of 1985), the Central Government hereby appoints Brig. B. S. Joshi (Retd.) as a whole-time Member (Personnel & Administration) in the National Airports Authority in Schedule 'B' scale of pay of Rs. 4000-125-4500 for a period of three years from the date he assumes charge of the post.

[No. A. 11013/3/87-NAA]

I R NAGPAL, Under Secy.

जल भूतस वरिष्ठम् मंत्रालय
 " (गविहन पत्र)

नई दिल्ली, 16 जुलाई, 1987

का. घा. 1952--कूंकि भारत के राजपत्र के असाधारण सम्बन्ध के द्वारा II, खंड 3, उप-खंड, (ii), दिनांक 1 नवम्बर, 1985 में प्रतिनियन भारत सरकार के भूतस वरिष्ठम् मंत्रालय (जल-भूतस वरिष्ठम् विभाग) की अधिकृता स. का. घा. 800(अ), दिनांक 1 नवम्बर, 1985 (जिसका कि इसके बाद उक्त अधिकृता के रूप में उल्लेख किया गया है) के आधायम से डाक वर्कर्स और नोवाइन कम्पनियों के एम्प्लायर्स का प्रतिनिधित्व करने वाले सदरय के रूप में डाक वर्कर्स समाहकार समिति के सदस्य के तौर पर थी। उक्तोंमेंकरण को नियुक्त किया गया था, और वह कि मदाम स्टेविटीस एंजेसिप्पेशन ने थी। कम्पन्सेकरण के स्थान पर थीं सी. वी. मुरुगेसन को नामित कर दिया है।

अतः यद्य केंद्रीय सरकार डाक वर्कर्स समाहकार समिति नियम, 1962 के नियम 3 के उपनियम (2) तथा नियम 6 के उपनियम (1) के द्वारा पञ्चमुक्त के साथ पठित डाक वर्कर्स (रोजार का विनियम) अधिनियम, 1948 (1948 का 9) की घारा 5 के उप-घारा (3) द्वारा प्रदत्त जक्षियों का प्रयोग करने हुए, एकत्रारा थी। कम्पन्सेकरण के स्थान पर थीं सी. वी. मुरुगेसन को डाक वर्कर्स समाहकार समिति का सदस्य नियुक्त करती है और हम उद्देश्य के लिए उक्त अधिकृता का निम्न प्रतार में संशोधित करती है, अथवा—

का. स. एन ई. ओ/108/85-पू. ए. एन।
 मुद्रण कुमार, भवर नविव

नोट—पम्बु अधिकृता का. घा. सं. 800 (अ), दिनांक 1.11.1985 के आधायम व प्रतिनियन हुई था। इसे नवागार नामे उत्तिवित अधिकृता के अस्ति तत्त्वाधित किया गया।—
 का. घा. सं. 369, दिनांक 1-2-1986।

MINISTRY OF SURFACE TRANSPORT

(Transport Wing)

New Delhi, the 16th July, 1987

S.O. 1952.—Whereas Shri A. Kamalasekaran was appointed as a member of the Dock Workers' Advisory Committee as a member representing the employees of the dock workers and shipping companies, vide Notification of the Government of India in the erstwhile Ministry of Transport (Department of Surface Transport), No. S.O. 800 (E), dated the 1st November, 1985 (hereinafter referred to as the said Notification), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 1st November, 1985;

And whereas the Madras Stevedores' Association has since nominated Shri C. V. Murugesan vice Shri A. Kamalasekaran;

Now, therefore, in exercise of the powers conferred by sub-section (2) of section 5 of the Dock Workers' (Regulation of Employment) Act, 1948 (9 of 1948), read with sub-rule (2) of rule 3 and the second proviso to sub-rule (1) of rule 6 of the Dock Workers' Advisory Committee Rules, 1962, the Central Government hereby appoints Shri C. V. Murugesan as a member of the Dock Workers' Advisory Committee vice Shri A. Kamalasekaran and for that purpose amends the said Notification as follows, namely—

In the said Notification, under the heading "Members representing the employers of the dock workers and shipping

companies", in item 3, for the words and letters "Shri A. Kamalasekaran", words and letters "Shri C. V. Murugesan", shall be substituted.

[F. No. LDO/108/85-US(L)]

SUDESH KUMAR, Under Secy.

NOTE.—The Principal Notification was published vide S.O. No. 800(E) dated 1-11-1985. This was subsequently amended vide Notification mentioned below :

S.O. No. 369, dated 1-2-1986.

अम इंशालय

नई दिल्ली, 21 जुलाई, 1987

का. घा. 1953--श्रीबोधक विवाद अविनियम, 1947 (1947 का 14) की घारा 17 के प्रारंभा 5, घारा 10, गुरा गोल माइनिंग लिमिटेड, के. जी. एफ. (कर्नाटक) के प्रब्रह्मन से सम्बद्ध तियोंको और उनके कर्मकारों के बोक, गुरुंग से लियारा श्रीबोधक विवाद में केंद्रीय सरकार अधिकृत, बगार के एंकपट को प्रकाशित करती है, जो केंद्रीय सरकार का 7-7-87 को प्राप्त हुआ था।

MINISTRY OF LABOUR

New Delhi, the 21st July, 1987

S.O. 1953.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore, as shown in the Annexure, in the industrial dispute between the employer, in relation to the management of Bharat Gold Mines Limited, K.G.F. (Karnataka) and their workmen, which was received by the Central Government on the 7th July, 1987

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT BANGALORE

Dated this the 17th day of June, 1987

Central Reference No. 13/1984. (New No. 18/87)

I, PARTY :

Shri Jayaseelan, C/o. The B.C.M. Employes' Union, Marikuppam, P.O. Kolar Gold Fields (Karnataka).

Versus

II PARTY :

The Chairman-cum-Managing Director, Bharat Gold Mines Ltd., Suvarna Bhavan, P.O., Oorgaum, Post Kolar Gold Fields-563120.

APPEARANCES

For the I Party : Shri V. Gopal Gowda, Advocate, Bangalore.

For the II Party : Shri K. Jagannatha Shetty, Advocate, Bangalore.

AWARD

The Government of India by its Order No. 1-41012(9)/83-D.I.I.B dated 6-5-1984, made the present reference on the following points of disputes :

POINT OF DISPUTE

"Whether the action of the management of Bharat Gold Mines Ltd., Kolar Gold Field, in dismissing from service with effect from 1-3-1982 Shri Jayaseelan, Clerk, Time Office, Nundydrug Mines of Bharat Gold—Mines, K.G.F., is legal and justified ? If

not, to what relief is the workman concerned entitled?"

2. During the course of the Trial I found that the workman has lost his left leg. That he has a big family and that if the litigation still continues he will be put to immense hardship. The parties were therefore requested to explore the possibilities of compromise. They accordingly arrived at a compromise and filed a joint memo.

3. This Tribunal has passed an Order as shown below

ORDER

4. Taking into account the fact that the workman has lost his left leg and has a big family, I make the suggestion to explore the possibilities of a compromise. The parties have now compromised and I find that it is in the interest of justice that it should be accepted. Accordingly, it is accepted and an award is hereby passed in terms of the compromise petition.

5. The workman prays that the management may not charge the arrears of rent for these days since the date of dismissal. I find that it is a modest prayer and should be allowed. The management is directed not to charge and recover rent or levy arrears of rent till the date that he is given employment.

6. The memo of compromise shall form part of the Award.

B. N. LALGE, Presiding Officer
[No. L-43012|9|83-D III(B)]

BEFORE THE CENTRAL INDUSTRIAL TRIBUNAL BANGALORE, CAMP AT K.G.F.

(Ref. No. 18|87)

BETWEN

Iavaseelan—I Party (Workman);

AND

Chairman-cum-Managing Director—II Party|Management

Joint memo filed by the Parties :

The parties above-mentioned have amicably settled the dispute as per the suggestion of the Presiding Officer of this Honourable Tribunal on humanitarian grounds on the following terms & conditions :

- (1) That the II party shall appoint the I party/workman as a new entrant in "D" grade as Clerk/Typist in full & final settlement of all his claims in this dispute.
- (2) That the II party has agreed to pay the benefit of gratuity if any which were accrued in his favour for the service rendered before his termination of his services in the II Party.
- (3) It is made clear that the I Party is not entitled for any other benefit including the benefit of gratuity for the period between the termination of his service & his new appointment.
- (4) The II party has agreed to give him employment within a week from this date. The party shall bear their own costs.

(Sd/- Illegible)

Advocate for I Party :

(Sd/- Illegible)

Advocate for II Party :

(Sd/- Illegible)

I PARTY

(Sd/- Illegible)

II PARTY

Date : 17-6-87

K G F

नई दिल्ली, 23 जुलाई, 1987

वा. आ. 1954.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रनुसरण में, बेंगलूरु सरकार, मैथें शहर एवं उनके कर्मचारों के बीच, अनुबंध में विविध श्रीयोगिक विवाद में बेंगलूरु सरकार श्रीयोगिक अधिकरण नं. 1, धरार के प्रकार का प्रकाशित करती है, जो केन्द्रीय सरकार का 8-7-87 का प्राप्त रूपा था।

New Delhi the 23rd July, 1987

S.O. 1954.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Dhanbad, as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Otan Das & Co., Pakur (S.P.) and their workmen, which was received by the Central Government on the 8th July, 1987.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD.

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 3 of 1984

PARTIES :

Employers in relation to the management of M/s. Otan Das and Company.

AND

Their Workmen.

PRESENT :

Shri S. K. Mitra, Presiding Officer

APPEARANCES :

For the Employers : Shri J. D. Lal, Advocate.

For the Workmen : None.

STATE : Bihar. INDUSTRY : Stone Quarry
Dhanbad, the 26th June, 1987.

AWARD

The present reference arises out of Order No. L-29012 (10)|83-D.III(B)|D.IV,A, dated, the 23rd December, 1983 passed by the Central Government in respect of an Industrial Dispute between the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

"Whether the termination of service w.e.f. 5-2-1982 of the following workers by the management of M/s. Otandas and Co., Pakur (S.P.) employed in their stone quarries is justified? If not, to what relief the workmen are entitled?"

LIST OF WORKMEN

1. Shri Khatul Sheikh (Kabatual Sheikh)

2. Shri Samail Sheikh.

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

S K MITRA, Presiding Officer
[No. L-29022|10783-D.III(B)]

FORM H

(See rule 58)

Form of Memorandum of Settlement

Memorandum of Settlement arrived at between the Management of M/s. Otan Das & Co. Pakur and the concerned workmen Sharvashree Kabatul Sk and Ismail Sk on 12th May, 1987.

Name of Parties :

1. Representing the Employer : For Otan Das and Co. Durga Das, Partner.
2. Representing the workmen : A. Kabatul Sk B. Ismail Sk.

Short Recital of the Case

The concerned workmen namely Sharvashree Kabatul Sk and Ismail Sk were directed by the Management to work on alternative job of Drill Man due to some exequity of work on and from 05-2-1982, but the two concerned workmen refused to work as Drill Man as directed by the Management. Thus they remained idle on their own since 05-2-82. to 31-5-1982. However good sense prevailed and the two concerned workmen and the Union approached the Management for employment and they were provided with job of Drill-Man with effect from 01-6-1982 and since then they are working as such.

However after the reference of the present dispute the workmen again approached the Management for mutual settlement of the case and the Management reciprocated the good gesture shown by the workmen and with a view to cordial relation between the Management and the Workmen and industrial peace the present dispute in Ref. Case No. 3 of 1984 pending in Central Government Industrial Tribunal No. 1, Dhanbad, is mutually resolved on the following terms :—

TERMS

1. That the two concerned workmen agreed to work as Drill-Man and the Management agreed to employ them as Drill-Man since 01-6-1982 and since then the two concerned workmen are working as such. The concerned workmen have voluntarily and with their own consent fine will have accepted the job of Drill-Man, which is a higher post and the workmen are getting higher wages.

2. The concerned workmen do not claim to be employed on their original job of Miners any more.

3. That the wages for the idle period from 15-2-1982 to 31-5-1982 has been paid by the Management to the concerned workmen as a good gesture and to maintain cordial employer and Employees relationship and the concerned workmen do hereby acknowledge the receipt of the Wages for the aforesaid period of idleness.

4. The concerned workmen have no other claim or claims arising out of dispute in reference case no. 3 of 1984 and all disputes between the Management and the concerned workmen arising out of reference case no. 3 of 1984 have been resolved to the mutual satisfaction of the both Management and the concerned workmen.

5. The concerned workmen admits that the Santhal Parganas Zilla Mines and Quarry Workers Union does not represent the two concerned workmen and they are not the member of the Santhal Parganas Zilla Mines and Quarry Workers Union which has no existence in the establishment where these two concerned workmen are employed.

Signature or thumb impression.

of the workmen :—

(L.T.I.)

1. Sri Kabatul Sk.

(L.T.I.)

2. Sri Ismail Sk.

Signature of the Witnesses :

For M/s. Otan Das & Co.

Sd/-

1. Suresh Kumar,
Manager.2. Naraan Ghosh,
Manager.

Sd/-

Shiv Shanker Stone Work,
Mazurkola Stone Mines.

Sd/-

S. K. Gupta,

for the mine Representative

Signature of the Employers

representative :

Sd/-

Signature of the representative
of the Union present.Deep Narain Dube,
Asstt. Secy.

Quarry Workers Union

Pakur, (I.N.T.U.C.)

Part of the Award.

नई दिल्ली, 22 जुलाई, 1987

का. आ. 1955.—शोधागिरि नियाद भवित्वितम्, 1947 (1947 का 14) की धारा 17 के अनुसार मै केंद्रीय उत्तरां बलिहारि कालयों में समेत भारत कानून जात फिल्ड में विशेष शोधागिरि नियाद जैसे भीर उनके कर्मकारों के बावजूद भवित्व में फिल्ड शोधागिरि नियाद में केंद्रीय सरकार शोधागिरि नियाद, संग्रह 1, प्राप्ति 5 पंक्ति को प्रकाशित करती है, जो केंद्रीय उत्तरां का 10 जुलाई, 1937 का प्राप्ति है।

New Delhi, the 22nd July, 1987

S.O. 1955.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Balihari Colliery of M/s. Bharat Coking Coal Ltd., At and P.O. Kusunda District Dhanbad and their workmen, which was received by the Central Government on the 10th July, 1987.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 27 of 1982

PARTIES:

Employers in relation to the Management of Balihari Colliery of M/s. B.C.C. Ltd., At and P.O. Kusunda, Distt. Dhanbad.

AND

Their workmen

PRESENT:

Shri S. K. Mitra, Presiding Officer.

APPEARANCES

For the Employers : Shri R. S. Murty, Advocate, and
Shri B. M. La, Dy. Chief Personnel Manager.

For the Workmen : None.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 30th June, 1987

AWARD

The present reference arises out of Order No. I-20012(10)/81-D.III(A), dated, the 2nd April, 1982 passed by the Central Government in respect of an industrial dispute between

the parties mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said schedule runs as follows :—

"Having in view the minutes of discussions dated the 24th February, 1976, whether the demand of the workmen of Balihari Colliery of Messrs Bharat Coking Coal Limited, Post Office Kusunda, Dist. Dhanbad, for regularisation of Tyndals, as listed in the Annexure below, as departmental workmen is justified? If so, to what relief are the concerned workmen entitled?"

ANNEXURE

1. Sri Dayal Singh
2. Sri Raghava Singh
3. Sri Latu Mahal
4. Sri Asha Ram Mallah
5. Sri Jawahar Singh
6. Sri Barasnuni Upadhyaya
7. Sri Ramu Paswan
8. Sri Adhirath Mahato
9. Sri Bisheshwar Mahato
10. Sri Ratilal Mahato
11. Sri Banwari Pandit
12. Sri Balo Mahato
13. Sri Bhairo Mahato
14. Sri Mahavir Dusadh
15. Sri Girchari Mahato
16. Sri Rajendra Prasad
17. Sri Surajdeo
18. Sri Ratan Mailah
19. Sri Sheonandan Ram
20. Sri Drigpal Singh
21. Sri Dega Mahato
22. Sri Gupteshwar Ram
23. Sri Amar Singh
24. Sri Tej Mohammad
25. Sri Sukhdeo Sao
26. Sri Digamber Singh
27. Sri Ramkesh Sharma
28. Sri Muneshwar Mahato
29. Sri Jethu Mahato
30. Sri Tika Mahato
31. Sri Lagan Mahato
32. Sri Jairam Rajak
33. Sri Bhola Singh
34. Sri Janki Ram
35. Sri Basai Yadav
36. Sri Amola Prasad
37. Sri Satyanarain
38. Sri Bishwanath
39. Sri Ganesh Mistry
40. Sri Rampadarath
41. Sri Kali Mahato
42. Sri Rambilash Ram
43. Sri Jaigovind
44. Sri Rameshwar
45. Sri Ramjas Yadav
46. Sri Rajbahadur Yadav
47. Sri Islam Mia
48. Sri Seolakhon Singh
49. Sri Dukhi Ram
50. Sri Ramratan Paswan
51. Sri Nago Yadav
52. Sri Mahendra Paswan
53. Sri Chandadeo Yadav
54. Sri Jugendra Singh
55. Sri Om Prakash Sharma

56. Sri Naresh Mistry
57. Sri Chandreshwar Dusadh
58. Sri Mangal Banwari
59. Sri Lakhan Yadav
60. Sri Budheshyam Passi
61. Sri Ramnath
62. Sri Noor Mohamad
63. Sri Sheonath
64. Sri Lakhan Ram
65. Sri Jacobans Prasad
66. Sri Rajendra Prasad
67. Sri Sukhdeo Dusadh.

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer
[No. I-20012/10/81-D.III(A)]

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1 DHANBAD IN THE MATTER OF REF. NO. 27 OF 1982

PARTIES

Employers in relation to the Management of Balihari Colliery, of Bharat Cooking Coal Ltd., Post Office, Kusunda, Distt. Dhanbad.

AND

Their Workmen.

JOINT COMPROMISE PETITION OF EMPLOYERS AND WORKMEN

The above mentioned employers and workmen beg to submit jointly as follows :—

1. That the employers and the workmen have jointly negotiated that matter with a view to arriving at an amicable and overall settlement of the matter covered by the aforesaid reference.
2. That as result of the aforesaid negotiations the employers and the workmen have arrived at a mutually acceptable and emicable settlement as follows :—
 - (a) It is agreed that the Management had already provided employment to the following 23 workers out of the 67 workers covered by the aforesaid reference and that there is no dispute

whatsoever any longer with respect to these 23 workers:—

| Sl. No. | Name | Sl. No. of Schedule of Ref. |
|---------|-------------------------|-----------------------------|
| 1. | Shri Dayal Singh | 1 |
| 2. | Shri Raghava Singh | 2 |
| 3. | Shri Ashu Ram Malah | 4 |
| 4. | Shri Byas Muni Upadhyay | 6 |
| 5. | Shri Ramu Paswan | 7 |
| 6. | Shri Adhirath Mahto | 8 |
| 7. | Shri Ratilal Mahato | 10 |
| 8. | Shri Banwari Pandit | 11 |
| 9. | Shri Bale Mahto | 12 |
| 10. | Shri Bhairo Mahto | 13 |
| 11. | Shri Mahabir Dusadh | 14 |
| 12. | Shri Jatial Mahto | 20 |
| 13. | Shri Tika Mahto | 20 |
| 14. | Shri Lagan Mahto | 31 |
| 15. | Shri Bhola Singh | 33 |
| 16. | Shri Janki Ram | 34 |
| 17. | Shri Basai Yadav | 35 |
| 18. | Shri Anola Prasad | 36 |
| 19. | Shri Satya Narain | 37 |
| 20. | Shri Biswa Nath | 38 |
| 21. | Shri Ram Padrath | 40 |
| 22. | Shri Kali Mahto | 41 |
| 23. | Shri Islam Mian | 47 |

(b) That it is agreed that the Management shall provide employment from now onwards to the following 11 more workers out of the 67 workers covered by the above reference as piece-rated Miner Loaders for working in the underground sections of the mines in piece-rated group-V-'A':—

| Sl. No. | Name of the workers | Sl. No. in the schedule to Ref. order |
|---------|----------------------|---------------------------------------|
| 1. | Shri Rajendra Prasad | 16 |
| 2. | Shri Surajdeo | 17 |
| 3. | Shri She Nandan Ram | 19 |
| 4. | Shri Sakdeo Saw | 25 |
| 5. | Shri Ram Bilash Ram | 42 |
| 6. | Shri Jai Gobind | 43 |
| 7. | Shri Rameshwar | 44 |
| 8. | Shri Sukhi Ram | 49 |
| 9. | Shri Nago Yadav | 51 |
| 10. | Shri Noor Mahaminad | 62 |
| 11. | Shri Sheo Nath | 63 |

(c) It is agreed that the Management shall provide employment to a further number of 23 workers covered by the aforesaid ref. at daily rated Cat. I, workers for performing jobs of Cat. I as per job description given in National Coal Wage Agreement No. 1 i.e., according to the concept of all men all jobs of Cat. I, introduced in connection with the Hydro Mine Project :—

| Sl. No. | Name of the workers | Sl. No. in the Schedule to Ref. Order |
|---------|--------------------------|---------------------------------------|
| 1. | Shri Jewahar Singh | 5 |
| 2. | Shri Discsiawar Mahato | 9 |
| 3. | Shri Giridhari Mahato | 15 |
| 4. | Shri Ratan Mallah | 18 |
| 5. | Shri Degan Mahato | 21 |
| 6. | Shri Amar Singh | 22 |
| 7. | Shri Taj Mohammad | 24 |
| 8. | Shri Ganesh Mistry | 39 |
| 9. | Shri Sheo Lakhon Singh | 48 |
| 10. | Shri Ram Ratan Paswan | 50 |
| 11. | Shri Mahendar Paswan | 52 |
| 12. | Shri Chandradeo Yadav | 53 |
| 13. | Shri Jagender Singh | 54 |
| 14. | Shri Om Prakash Sharma | 55 |
| 15. | Shri Naresh Mistry | 56 |
| 16. | Shri Chandreshwar Dusadh | 57 |
| 17. | Shri Mangal Bouri | 58 |
| 18. | Shri Lakhon Yadav | 59 |
| 19. | Shri Radhey Shyam Pas | 60 |
| 20. | Shri Lakhan Ram | 64 |
| 21. | Shri Jadu Bans Prasad | 65 |
| 22. | Shri Sukdeo Dutadh | 67 |
| 23. | Shri Rajender Prasad | 66 |

(d) It is agreed that the further number of following 8 workers will also be provided employment in daily rated Cat. I for performing any of the jobs of Cat. I on the same basis as indicated in respect of 23 workers referred to under clause (a) above :—

| Name of the workers as given by the Ex-Contractor | Name of the workers as appearing in schedule to the reference order | Sl. No. in the Schedule to the Ref. Order |
|---|---|---|
| 1. Shri Latu Mallah | Shri Latu Mahal | 3 |
| 2. Shri Dirgpal Singh | Shri Drigpal Singh | 20 |
| 3. Shri Gopeshwar | Shri Guptashwar Ram | 22 |
| 4. Shri Banktesh | Shri Rakesh Sharma | 27 |
| 5. Shri Maneshwar | Shri Muneshwar Mahato | 28 |
| 6. Shri Ramyas | Shri Ramyas Jadav | 45 |
| 7. Shri Raj Bahadur | Shri Rajbahadur Jadav | 46 |
| 8. Shri Digambar Singh | Shri Digamber Singh | 26 |

3. It is agreed that employment will be provided to the 8 workers referred to in clause 2(d) above subject to the following conditions :—

(a) The workers concerned should file affidavit with their photograph affixed thereon that their correct name is as indicated at Ca 1.8 of Clause 2(a) above.

(b) The Branch Secretary of RCMS Shri Murli Dhar Prasad will certify the genuiness of each workers by certifying and attesting the photograph of each worker that he is the person concerned whose name appear at relevant as Sl. No. of the schedule of Ref. {No. 27/82.

(c) The workers concerned should also produce certificates with their photographs affixed thereon from the Mukhiya and B.D.O. concerned regarding their identification and genuineness.

4. It is agreed that the 11 workers referred to in clause 2(b) and 23 workers referred to in clause 2(c) should also file affidavit with their photographs affixed thereon stating that they were the workers bearing the same names working under the ex-contractor and they should also produce a certificate from the Mukhiya and B.D.O. concerned regarding their identification and genuineness with the photographs duly attested that they are the person who are entitled to employment under the above reference.

5. It is agreed that employment will be provided to the workers referred to in clause (b), (c) and (d) above subject to their being medically found fit by the Medical Officer of Bharat Coking Coal Ltd.

6. It is agreed that if at any time in the future it is found that the workers/persons concerned were not the genuine persons or persons who have not worked under ex-Contractor, the management shall have the right to terminate their services summarily.

7. It is agreed that the appointment in all the cases of workers referred to in clause 2(b), 2(c) and 2(d) will be absolutely a fresh and that the workers concerned will not be entitled to any monetary or non-monetary benefits in regards to any past period. The appointment will be provided as soon as the specified conditions are fulfilled.

8. It is agreed that the following two persons at Sl. No. 32 and 61 in the schedule of Reference whose names do not fully tally with the list of the names given by the Contractor, the Union will submit further details which will be examined and forwarded to Hd. Qr. It is only after the approval of the Hd. Qr. their cases will be considered. The decision of the Hd. Qr. will be binding.

Name of the persons Sl. No. under the reference Order.

| | |
|----------------------|----|
| 1. Shri Jayram Rajak | 32 |
| 2. Shri Ram Nath | 6 |

9. It is agreed this is an overall settlement in respect of the claims of the Workmen/sponsoring union arising out of the aforesaid reference.

10. That the employers and the workmen consider that the above agreement/settlement is fair, just and reasonable to both the parties.

In view of the above, the employers and the workmen jointly pray that the Hon'ble Tribunal may be pleased to give an award in terms of this joint compromise petition and dispose of the reference accordingly.

And for the both the parties shall as in duty bound shall ever pray.

Sd/-

Shri S. Das Gupta,
Acting Presiding
R.C.M.S.,

For and on behalf of the workmen.

Sd/-

General Manager
Pootke Balihari Area.
Bharat Coking Coal Limited

For and on behalf of Employers

Shri Murlidhar Prasad, Dy. Chief Personnel Manager,
Dr. Secretary, Balihari Colliery,
Pootke Balihari Area, BCCL,
R.C.M.S.,
For and on behalf of Workmen.
For and on behalf of employers

WITNESS :—

- (1) Sd/- Illegible
- (2) Sd/- Illegible

Distribution :

1. Asstt. Labour Commissioner (C), Dhanbad.
2. Regional Labour Commissioner (C), Dhanbad.
3. Chief Labour Commissioner (C), New Delhi.
4. Secretary, Ministry of Labour, Govt. of India, New Delhi.
5. General Manager (Personnel), BCCL, Koyla Bhawan, Dhanbad.

K.A. 1956.—मौद्योगिक विभाग अधिनियम, 1947 (1947 का 14) की धारा 17 के प्रत्युषण 4, केन्द्रीय सरकार, कैन्यारो, मैससे मेस्ट्रल कॉल फॉइल लिमिटेड के प्रबंधनत्र के सचिव नियोजकों और उनके कर्मकारों के बीच, भारतीय में फिर्दू और गिरा देश में केन्द्रीय सरकार मौद्योगिक प्रधिनय, मध्य-2, दानापुर, के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 7 जुलाई, 1987 को प्राप्त हुआ था।

S.O. 1956.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sirka Colliery of M/s. Central Coalfields Limited, and their workmen, which was received by the Central Government on the 7th July, 1987.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

Reference No. 76 of 1985

In the matter of industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

PARTIES :

Employers in relation to the management of Sirka Colliery of Messrs. Central Coalfields Limited and their workmen.

APPEARANCES :

On behalf of the workmen.—Shri A. Alam, Advocate.
On behalf of the employees.—Shri K. D. Chatterjee,
Sr. Advocate and Shri J.
Krishna, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 26th June, 1987

AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-2002/ (355)/84-D.III(A), dated the 1st June, 1985.

SCHEDULE

"Whether the demand of United Coal Workers' Union that the Wagon Loaders mentioned in the Annexure to this Order should be paid appropriate wages directly by the management of Sirka Colliery of Messrs Central Coalfields Limited and that their record of employment should be maintained properly by the said management is justified ? If so, to what relief are the said wagon loaders entitled ?"

ANNEXURE

| Sl. No. | Name of the workmen | Father's name |
|---------|---------------------|-------------------|
| 1. | Mankari Gope | Jagmohan Gope |
| 2. | Kanhu Munda | Charan Munda |
| 3. | Barlanga | Charan |
| 4. | Bijendra | Sarbhoo Manjhi |
| 5. | Birju Chouhan | Rajan Chouhan |
| 6. | Motu | Arajud Mahto |
| 7. | Bali Ram | Mazahar Ram |
| 8. | Garib Ram | Righu Ram |
| 9. | Ramashwarup | Bharat Dusadh |
| 10. | Baldeo Mahto | Dukhi Mahto |
| 11. | Rafique Mian | Nabi Mian |
| 12. | Ramdeo Ram | Fishun Manjhi |
| 13. | Ramchandra Majhui | Basudeo Manjhi |
| 14. | Baishakhu Das | Gopichand Das |
| 15. | Kamla Devi | Belli Gope |
| 16. | Kawali Devi | Girdhari Chaouhan |
| 17. | Mangal | Jhari |
| 18. | Ramprasad | Jhalwa |
| 19. | Bashishat | Balo Das |
| 20. | Ramjit | Radhkhani |
| 21. | Arjun Choudhary | Ganesh Choudhary |
| 22. | Dukhia Ram | Rameshwar |
| 23. | Noor | Karu Mian |
| 24. | Ramchandar | Baiju |
| 25. | Bishun | — |
| 26. | Judai | Doman Manjhi |
| 27. | Sahdeo | Shodagar Manjhi |
| 28. | Govind Rajak | Gouri Rajak |
| 29. | Shadhu Rajak | Madan Rajak |

| Sl. No. | Name of the workmen | Father's name |
|---------|---------------------|------------------|
| 30. | Chudaban Rajak | Jitan Rajak |
| 31. | Matlu Bhian | Butan Bhian |
| 32. | Kaila Rajak | Babulal Rajak |
| 33. | Suresh | Laxman |
| 34. | Basant | Janun Manjhi |
| 35. | Rajan | Ganouri |
| 36. | Nagina | Mahabir |
| 37. | Naresh | Manki |
| 38. | Narayan Ram | Sheo Nandan Ram |
| 39. | Naresh Manjhi | Hari Manjhi |
| 40. | Kishun Mahto | Parshadi Mahto |
| 41. | Bhiku Saw | Baudhi Saw |
| 42. | Shonu Munda | Ganga Munda |
| 43. | Krishna | Shankar Manjhi |
| 44. | Mahendar | Ramdhari Mahto |
| 45. | Amrika | Baso Rajlaxnsi |
| 46. | Bijai Thakur | Sevan Thakur |
| 47. | Rank Ram | Kalicharan Ram |
| 48. | Indradeo Mandal | Sila Ram Mahto |
| 49. | Rajendra Prasad | Brahmdeo Mahto |
| 50. | Kaila | Koshi Bhian |
| 51. | Laljit | Kishi Bhian |
| 52. | Ramna | Baldeo Bhuiyan |
| 53. | Rajbalan | Paru Bhia |
| 54. | Goriledas | Jagdish |
| 55. | Sanicharwa | Daum Bhuiyan |
| 56. | Minka | Bihari Manjhi |
| 57. | Rambhilas | Nagar Bhuiyan |
| 58. | Ramashish | —do— |
| 59. | Bhuneshwar | Shiba Bhuiyan |
| 60. | Ramsarup | Potuli Bhuiyan |
| 61. | Muna | Chahal Bhuiyan |
| 62. | Rameshwar | Bhalav Bhuiyan |
| 63. | Lalan Choohao | Nathun Chouhan |
| 64. | Koka | Nuhak Paswan |
| 65. | Premnath | Kasi Bhuiyan |
| 66. | Chouthi Bhuiyan | Jago Bhuiyan |
| 67. | Amrika Bhuiyan | Gokul Bhuiyan |
| 68. | Janak Bhuiyan | —do— |
| 69. | Mahendar Bhuiyan | Jethu Bhuiyan |
| 70. | Jamuna Bhuiyan | Bihari Bhuiyan |
| 71. | Birju Bhuiyan | Lalwari Bhuiyan |
| 72. | Sarju Bhuiyan | —do— |
| 73. | Mushi Bhuiyan | Ranjit Bhuiyan |
| 74. | Girani Bhuiyan | Kask Bhuiyan |
| 75. | Sarda | Foudi Bhuiyan |
| 76. | Basudeo | Mani Singh |
| 77. | Badeshi | Pana Manjhi |
| 78. | Birchha | Ramkishun Manjhi |
| 79. | Mahesh Sao | Bhikhari Sao |
| 80. | Parshadi Bhuiyan | Bhikhan Manjhi |
| 81. | Chandu Ram | Punit Ram |

| Sl. No. | Name of the workmen | Father's name | Sl. No. | Name of the workmen | Father's name |
|---------|---------------------|--------------------|---------|------------------------|-----------------------|
| 82. | Kaila Ram | Shukdeo Bhuria | 135. | Arbind | Muktaman |
| 83. | Nandwa Ram | Bideshi Ram | 136. | Bengali | Bbukhan Manjhi |
| 84. | Charka Nayak | Kalicharan | | | |
| 85. | Puran | Khedu Das | 138. | Rambrichha | Sahdeo Singh |
| 86. | Amir Das | Jagdish Das | 139. | Gobind Bhuria | Kaila Bhuria |
| 87. | Shukara | Ganouri | 140. | Ramjit | Ramgobind Singh |
| 88. | Shoukhi Bhuria | Dasan Bhuria | 141. | Muslim | Banif. |
| 90. | Sonama | Etwari | 142. | Jagdish Sao | Boudhi Sao |
| 91. | Bhuna Mahto | Maria Mahto | 143. | Jamuna | Galo Ram |
| 92. | Gudhadan | Rajrangi Bhuria | 144. | Murli Munda | Singa Munda |
| 93. | Hepia Munda | —do— | 145. | Surajdeo | Sahdeo Singh |
| 94. | Deolal | Peru Manjhi | 146. | Awadh Bihari Upadhyaya | Sadhucharan Upadhyaya |
| 95. | Lorka | Latan | 147. | Shyamnandan | Seojee Singh |
| 96. | Mushafir | Chaman | 148. | Birju | Kuber |
| 97. | Jogeshwar | Kishun | 149. | Jagdish | Nanku |
| 98. | Mehar | Ramlal Nayak | 150. | Bachu | —do— |
| 99. | Samsul | Jamal | 151. | Raju | Nanku |
| 100. | Sankar | Kanhailal | 152. | Mchilal | Sarju |
| 101. | Basho | Rajkumar Manjhi | 153. | Dhaya | Mahabir |
| 102. | Maheshwar Bhuria | Bideshi Bhuria | 154. | Sanjay | Hira |
| 103. | Krishan Chouhan | Bhulu Chouhan | 155. | Puran | Arjun Gope |
| 104. | Laxman Turia | Gopi Turia | 156. | Binod | Bhuneswar Prasad |
| 105. | Ramji Bhuria | Bhuneswar Bhuria | 157. | Murli Singh | Nirgun Singh |
| 106. | Parbati Devi | Prasad Chouhan | 158. | Bijay Singh | Sarju Singh |
| 107. | Chhotan Bhuria | Eto Bhuria | 159. | Kaila | Rodha Mahto |
| 108. | Balo Uraw | Nandal Uraw | 160. | Lalchand Pd. Mahto | Nanku Mahto |
| 109. | Bigan | Dukhan Mahto | 161. | Bajnath Prasad | Jhalu Mahto |
| 110. | Mani | Arajjal | 162. | Lahangi Prasad | Sarju Mahto |
| 111. | Ruastam | Batir Mian | 163. | Anil Singh | Sarju Singh |
| 112. | Tekmeshwa | Bidesi Bhurian | 164. | Mandu Ram | Shoukhi Ram |
| 113. | Rajkumar | Bihari Manjhi | 165. | Nepal Ram | —do— |
| 114. | Fulchand Ram | Kashi Ram | 166. | Sukha | Budhu |
| 115. | Inadar | —do— | 167. | Kumara | —do— |
| 116. | Kailash | —do— | 168. | Latna Ram | Baldeo Ram |
| 117. | Madheshwar | — | 169. | Ramun Ram | Jadho Ram |
| 118. | Arjun | Manka | 170. | Lakhan Ram | —do— |
| 119. | Bajwa Bhuria | Kaila Bhuria | 171. | Kailash Ram | Radheshayam Ram |
| 120. | Kameshwar Ram | Rambrich Ram | 172. | Kaila Ram | —do— |
| 121. | Rameshish | Bijnath Ram | 173. | Bhuneswar Ram | Janka |
| 122. | Tuntun Ram | Racibrich Ram | 174. | Kalyan Ram | J mun Ram |
| 123. | Sanju | — | 175. | Ashok | Soudagar |
| 124. | Ramjit Ram | Mahit Ram | 176. | Arjun Bhuria | |
| 125. | Rambilash Rajak | Gouri Rajak | 177. | Karu Manjhi | Prakhu Manjhi |
| 126. | Pashan Bhuria | Shoudagar Bhuria | 178. | Birju Ram | Biju Ram |
| 127. | Latan Bhuria | Malabir Bhuria | 179. | Sako | —do— |
| 128. | Juman Munda | Sambhu Munda | 180. | Sita Ram | Baldeo Ram |
| 129. | Mahiu Mund | Mathura Munda | 181. | Gunadhar Bedia | Seocharan Bedia |
| 130. | Shyam Deo | Bhitu Manjhi | 182. | Ramdeo Bedia | —do— |
| 131. | Manik Chand | — | 183. | Jageshwar Manjhi-I | Gahan Manjhi |
| 132. | Jitirkash | Bangwat Pathak | 184. | Sheocharan Thakur | Kishan Thakur |
| 133. | Parmarand | — | 185. | Ratna | Bideshi |
| 134. | Panchnand | Dashrath Choudhary | | | |

| Sl. No. | Name of the workmen | Father's name | Sl. Name of the workmen No. | Father's name |
|------------|---------------------|-------------------|--------------------------------|-----------------------|
| 186. | Sonara | Bedeshi | 240. | Puran Choudhry |
| 187. | Shyamdeo | —do— | 241. | Sudharshu Choudhry |
| 188. | Birendra Mahto | Sudaria Mahto | 242. | Kishun Ram |
| 189. | Jagdish-II | Jago | 243. | Sarju Rabidas |
| 190. | Pusna Mahto | Basudeo Mahto | 244. | Jagarnath Rabidas |
| 191. | Annut Ram | Chhotan Ram | 245. | Dukhi Choudhry |
| 192. | Mesafir | Shomna | 246. | Anuramth Sao |
| 193. | Bhatu | —do— | 247. | Murli Chand Rabidas |
| 194. | Chana | Sakti | 248. | Santi Urawon |
| 195. | Bishwanath | Muna Mahto | 249. | Charka |
| 196. | Lakhan Mahto | Maneshwar Mahto | 250. | Raedea |
| 197. | Chotalal Manjhi | Sohsai Manjhi | 251. | Lal Mohan |
| 198. | Deosagar Chouhan | Choudre Gobind | 252. | Manima |
| 199. | Rameshwar Ram | Pasaudi Ram | 253. | Sitala |
| 200. | Sudama Mahto | Ragunath Mahto | 254. | Chalitar Ram |
| 201. | Prakash Mahto | Prasadi Mahto | 255. | Aditya Ram |
| 202. | Malleshwar Rajhansi | Ghitar Rajbansi | 256. | Ramsakal Ram |
| 203. | Kasho Rabidas | Etwari Rabidas | 257. | Shredelhangi Ram |
| 204. | Haricharan Ram | Chhojan Ram | 258. | Seoshagar Ram |
| 205. | Dec Raj Prajapati | Fagun Parajapati | 259. | Bodh Ram |
| 206. | Ramkrishan Mahto | Shukhdeo Mahto | 260. | Inderdeo Ram |
| 207. | Chali Mahto | Shikhdeo Mahto | 261. | Suresh Mahto |
| 208. | Giriraj Rabidas | Ramcharit Rabidas | 262. | Ramjee Mahto |
| 209. | Arjun Rajhansi | Prayag Rajbansi | 263. | Shuaselsi Ram |
| 210. | Kamo Ram | Prasadi Ram | 264. | Suresh Ram |
| 211. | Shree Ram | Aghu Ram | 265. | Raghunath Mahto |
| 212. | Jatan Manjhi | Dahu Manjhi | 266. | Arlu Baitha |
| 213. | Febu Lal Manjhi | Manager Manjhi | 267. | Chandrapati Prajapati |
| 214. | Chaleshwar Manjhi | Sohraj Manjhi | 268. | Shuneshwar Baitha |
| 215. | Ganshi Rabidas | Brihaspat Rabidas | 269. | Rampukar |
| 216. | Jani Rabidas | Ganeshi Rabidas | 270. | Sudama |
| 217. | Bhuneshwar Ram | Dhasan Ram | 271. | Lakhan |
| 218. | Shuresh Ram | Barneshwar Ram | 272. | Bedesi |
| 219. | Lalit Prasad | Badri Mahto | 273. | Jogani Sao |
| 220. | Arbind Kumar | Faudi Mahto | 274. | Laxmi Sao |
| 221. | Keilash Mahto | Dhaka Mahto | 275. | Ram Bhatan Sao |
| 222. | Kigal Rajbansi | Jagdeo Rajbansi | 276. | Shree Choudhry |
| 223. | Aril | Samsara | 277. | Rasaka |
| 224. | Kilesiar Prasad | Puna Mahto | 278. | Somra |
| 225. | Ishwar Mahto | Ramsartazi Mahto | 279. | Kameshwari |
| 226. | Jugadi Manjhi | Karu Manjhi | 280. | Narayan Urai |
| 227. | Petamber | Sukhdeo | 281. | Mahesh Choudhry |
| 228. | Surgita | Fulshi | 282. | Bandhan |
| 229. | Panna Lal | Gopa | 283. | Kishun Choudhary |
| 230. | Chail Sao | Baldhu Sao | 284. | Sambhu Munda |
| 231. | Chanderico Yadav | Jatan Yadav | 285. | Sokhi |
| 232. | Chandradip Sao | Puran Sao | 286. | Sita Ram |
| 233. | Suresh Singh | Banulal Singh | 287. | Ram Chandra |
| 234. | Sita Ram Prasad | Mohan Prajapati | 288. | Rajendra |
| 235. | Khai Thakur | Saba Thakur | 289. | Pardhuman Baitha |
| 236. | Enop Ram | Birju Ram | 290. | Birju |
| 237. | Bonod Ram | Jagnarayan | 291. | Kamdeo |
| 238. | Mundar Choudhary | Mukhdeo Chaudhary | 292. | Maharaja |
| 239. | Munda Choudhary | Sukhdeo Choudhary | 293. | Raghu Ram |

| Sl. No. | Name of the workmen | Father's name | Sl. No. | Name of the workmen | Father's name |
|---------|---------------------|-----------------------|---------|---------------------|-------------------|
| 294. | Sibhana Prajapati | Dukbaran Prajapati | 348. | Surajdeo Ram | Nandi Ram |
| 295. | Krishna Ram | Jamu Ram | 349. | Satyaranayan | Birju Ram |
| 296. | Saukhi | Usant Manjhi | 350. | Sondagar Manjhi | Ragho Manjhi |
| 297. | Kailash | Ramtahal | 351. | Luxman Mahto | Ragho Mahto |
| 298. | Jagarnath Sao | Balakeshwar Sao | 352. | Smt. Kamli Devi | Binda |
| 299. | Shankeshwar Yadav | Gopi Yadav | 353. | Akawa | Saudagar |
| 300. | Narayan Sao | Lochan Sao | 354. | Marodevi | Kuldeep Ram |
| 301. | Ganeshwar Sao | Bharo Sao | 355. | Deonandan Thakur | Mahabir Thakur |
| 302. | Arjun Oraw | Lathu Oraw | 356. | Suresh | Bakhori |
| 303. | Fagun Orew | Bhugani | 357. | Bajnath Mahto | Mahto, Mahto |
| 304. | Somari Lotha | Dhobia | 358. | Ramsurat Ram | Mundrika |
| 305. | Parnu | Ramrup | 359. | Shyamdeo Ram | Aliya Ram |
| 306. | Dhanesar | Chhotan | 360. | Jamuri | Atwari |
| 307. | Srimati Bhouri Devi | -do- | 361. | Ramprasad | Chamari Rajbansi |
| 308. | Pramod Kr. Thakur | Bisheshwer Thakur | 362. | Kishori Mahto | Satynarayan Mahto |
| 309. | Surju | Siba | 363. | Suresh Rabidas | Dukhi Rabidas |
| 310. | Prameshwar | Ramrup | 364. | Mahendra Rabidas | Godi Rabidas |
| 311. | Sheo Charan Mahto | Narain Mahto | 365. | Smt. Paridho Devi | Baleshwar Ram |
| 312. | Boresha | Ramrup | 366. | Kaili Devi | Chamari Manjhi |
| 313. | Jogendra Sao | Ruplal | 367. | Sumitri Devi | Rameshwar Manjhi |
| 314. | Indradeo Ram | Mundrika Sao | 368. | Rukminiya | Gadberu |
| 315. | Brijdeo Ram | Mundrika Ram | 369. | Rajo | Prabhu Manjhi |
| 316. | Chandradhan Ram | Mundrika Ram | 370. | Sharan Ram | Dashrath Ram |
| 317. | Sita Ram | Ramdas Ram | 371. | Somu Ram | Fuchi Ram |
| 318. | Rajendra Ram | Janki Ram | 372. | Bachan Ram | Rohan Ram |
| 319. | Tuna Ram | Sukur Ram | 373. | Dhaneshwar Ram | Ram Lakhan Ram |
| 320. | Rambasan Ram | Rameshwari Ram | 374. | Sarjug Manjhi | Damari Manjhi |
| 321. | Mahendra Ram | Inderdeo Ram | 375. | Anand Mahto | Tekar Manjhi |
| 322. | Kailash Ram | Ramdhari Ram | 376. | Nansalal Mahto | Gopa Mahto |
| 323. | Ramdas Ram | Ishwari Ram | 377. | Ramnandan Paswan | Ramdhani Paswan |
| 324. | Rajendra Thakur | Mahadas Ram | 378. | Chandeshwar Rabidas | Janki Rabidas |
| 325. | Anusadhi Sao | Arjun Sao | 379. | Baju | Manki |
| 326. | Gobind Oraw | Laldeo Chand Orawn | 380. | Basudeo | Ramdeo |
| 327. | Karu | Daroughi | 381. | Jagdeo | Rameshwar |
| 328. | Sakuldeo Oraw | Sakun Orawn | 382. | Nageshwar | Janki |
| 329. | Radheshyam Orawn | -do- | 383. | Sajua | Hansa |
| 330. | Jagarnath Orawn | Mahesh Orawn | 384. | Dhaneshwari Devi | Baleshwar Mahto |
| 331. | Surjdeo Gope | Sita Ram Gope | 385. | Mina Devi | Gulab Choudhary |
| 332. | Shyampari Devi | Prameshwar Ram | 386. | Mina Devi | Gulab Chuodhary |
| 333. | Babu Lal | Basant | 387. | Kedar Rabidas | Genori Mahto |
| 334. | Lalu | Budhan | 388. | Luxman Manjhi | Sukar Manjhi |
| 335. | Sitali | Jainath | 389. | Smt. Yashodha | Kishun Ram |
| 336. | Rajendra Prajapati | Dukheshwar Praja-pati | 390. | Darsu Devi | Hari Manjhi |
| 337. | Bhola | Nanmohan | 391. | Sharda | Somra Manjhi |
| 338. | Bangali | Shyamlal Singh | 392. | Shanti Devi | Prasadi Mahto |
| 339. | Karamdeo Sao | Bhado | 393. | Sharda Devi | Hari Manjhi |
| 340. | Sbacya Mahto | Inder Mahto | 394. | Lachbo | Chottan Ram |
| 341. | Dashai | Bandi | 395. | Kari | Shyamlal Matho |
| 342. | Jagdish | Ramanuj Manjhi | 396. | Lalti Devi | Fagupi |
| 343. | Buletana | Maneda Ram | 397. | Sonmati | Fagupi Ram |
| 344. | Kameshwar Mahato | Chalitar Mahto | 398. | Kaushilya | Ramrupa |
| 345. | Dharindra Singh | Ganeshwar Pd. Singh | 399. | Tono Devi | Prayag Rajbansi |
| 346. | Sita Sao | Talu | 400. | Bimal Devi | Lali Rajbansi |
| 347. | Deogagi Ram | Manik Ram | | | |

| Sl. | Name of the workmen | Father's name | Sl. | Name of the workmen | Father's name |
|------|---------------------|----------------------|------|---------------------|-------------------|
| | | | No. | | |
| 401. | Shanti Devi | Mathura Rajbansi | 455. | Bind Singh | Jiblal Singh |
| 402. | Dhandari Devi | Paltu | 456. | Laxman Sao | |
| 403. | Kari No. I | Bokhari | 457. | Kameshwar Choudhary | Mangru Choudhary |
| 404. | Kari No II | Faguni | 458. | Raghu Choudhary | Choudhary Arbind |
| 405. | Narendra Prasad | Prasadi Mahto | 459. | Arabind Choudhary | Muktman Choudhary |
| 406. | Bandhan | Mohan Bhata | 460. | Badelcan | Kariman Yadav |
| 407. | Rambrich Ram | Atbari Ram | 461. | Seodhari | Kariman Yadav |
| 408. | Brijnanda Mahto | Batchu Mahto | 462. | Shayam Bihari | Sheonarayan Yadav |
| 409. | Gulab | Somar Ram | 463. | Kantish Singh | Mahendra Singh |
| 410. | Pawan Kr. Singh | Mukati Pr. sad Singh | 464. | Birlanath Giri | Jaleshwar Giri |
| 411. | Ganesh Manjhi | Lachho Manjhi | 465. | Banbansi Gope | Ramkori |
| 412. | Digana | Lachho Manjhi | 466. | Chotela | Ramkishun |
| 413. | Sita Ram | Hari | 467. | Dabu | Raja Ram |
| 414. | Krishan Manjhi | Kamahi Manjhi | 468. | Kailash | Raja Nath |
| 415. | Suresh Ram | Daho Manjhi | 469. | Hari Ram | Sheo Pujan |
| 416. | Jago | Jathu | 470. | Manaraj | Jagu |
| 417. | Rameshwari | Shankat Daya | | | |
| 418. | Raghbir | Kala | | | |
| 419. | Ramadhar | Kamla | | | |
| 420. | Rameshinkar | Rajdeo | | | |
| 421. | Surjdeo Sao | Sita Ram Sao | | | |
| 422. | Bhikhari Sao | Tribeni Sao | | | |
| 423. | Brita Sao | Mukhalal Sao | | | |
| 424. | Nameshwar Yadav | Nanha Yadav | | | |
| 425. | Birja Sao | Balkeswar Sao | | | |
| 426. | Jaganath Sao | Balkeshwar Sao | | | |
| 427. | Madho Sao | Manika Chand Sao | | | |
| 428. | Kanchi Thakur | Sita Thakur | | | |
| 429. | Jagdish Sao | Keshwar Sao | | | |
| 430. | Chilitra Sao | Biskumar Sao | | | |
| 431. | Lalmunia Ram | Jagdeo Ram | | | |
| 432. | Suresh Singh | Kailu Singh | | | |
| 433. | Binod | Bhagwat Pathak | | | |
| 434. | Umeshankar Yadav | Sakaldeo Yadav | | | |
| 435. | Bhagwan Yadav | Sakadeo Yadav | | | |
| 436. | Shree Choudhary | Kishun Choudhary | | | |
| 437. | Brija Choudhary | Ramlal Choudhury | | | |
| 438. | Kishun Choudhary | Bilat Choudhry | | | |
| 439. | Deonath Noniya | Jhari Noniya | | | |
| 440. | Dhirendra Singh | Ram Chalitar Singh | | | |
| 441. | Nirenjan Chouhan | Kishor Singh | | | |
| 442. | Krishna Chouhan | Sardhan Chouhan | | | |
| 443. | Nakul Ram | Mugen Ram | | | |
| 444. | Laxman Ram | Banai Ram | | | |
| 445. | Fulpatia Devi | Nirendhan Choudhry | | | |
| 446. | Pankuri Devi | Bhuneshwar Chouhan | | | |
| 447. | Buihan Singh | Rambashen Singh | | | |
| 448. | Bideshwari Sao | Bishun Sao | | | |
| 449. | Kameshwar Singh | Dukhi Singh | | | |
| 450. | Hari Gope | Dasrath Gope | | | |
| 451. | Bandhan Kumar | Saheb Kumar | | | |
| 452. | Rustani Ansari | Buthni Ansari | | | |
| 453. | Birsu Munda | Jhabra Munda | | | |
| 454. | Somra Uraw | Labra Orawn | | | |

NOTE.—It may be noted that in the annexure to the order of reference there is no Sl. No. 89 and 137.

The case of the workmen is that the 470 workmen under the reference are employees of Sirka colliery of M/s. CCL. They were engaged permanently and continuously for several years as wagon loaders. The management in order to deprive them of the benefits and facilities to which they are lawfully entitled do not maintain the statutory records relating to their employment and are not issued documents and papers which are statutorily required in support of their employment. The management do not even by them their wage directly to them for the work of loading performed by them by the management. Sirka Colliery maintain two railway sidings, namely, Sirka east and Sirka proper siding. The coal extracted from the Sirka Colliery is transported to different places by railway wagons from the said two sidings. For that purpose the railways sent its wagons to the two sidings from where the management gets the coal loaded in the wagons. The loading of coal in the railway wagons is carried out manually by the employees of the collieries who are designated as wagon loaders. The management falsely asserted during the conciliation proceeding that it has on its roll only 329 permanent wagon loaders and 13 casual wagon loaders engaged in the work of loading of coal on the railway wagons. The said 329 permanent wagon loaders and 13 casual wagon loaders are the workmen on the record of the management. However, both the workmen on record of the management and the workmen under reference are all employees of the same management engaged simultaneously for doing exactly the same job. The wagon loaders work 8 hours per day and they are paid wages on piece rate basis. The work load for wagon loading of coal is 4.5 M.T. per individual workmen during 8 hours working day. The wagon loaders work in a team and several workmen for loading each railway wagon and the said team is known as Gang or Dangal. Each gang has its own leader from its own gang and is known as Dangal Sardar. The number of workmen comprising a gang depends upon the size of the railway wagon. The railway wagons are generally of 2 sizes, namely, of 22 M.T. known as four wheelers, & 5 M.T. known as Box wagons. In case of four wheeler gang comprises of 5 wagon loaders @ 4.5 M.T. per workmen. In case of the box wagon the gang comprises of 12 wagon loaders @ 4.5 M.T. As soon as the railway

wagons are placed at the siding they have to be loaded and despatched promptly within the prescribed time as in the case of delay the colliery has to pay demurrage to the railway. The rake comprising the railway wagons are placed at the railway siding in large number at one time. The strength of the workmen on the record of the colliery is inadequate for loading of coal in the railway wagons in the short period and hence the management has employed the workmen under reference as wagon loaders on permanent basis. As no record of employment is maintained by the management in respect of the workmen under reference, the amount of coal loaded by them is shown in the management's record against any one of the workmen on the record of the colliery working in the same gang and thereby this manipulation artificially inflates the amount of coal loaded by the workmen on record so much so that the amount loaded appears to be an absurd proposition. As the records of employment of the workmen under reference are not maintained, they are not paid their wages directly by the management and their wage is shown in the management's record against the name of the workmen on record of his group who is credited with the actual work done by the workmen under reference of group. The wages of all the workmen under reference in each gang is handed over to the Dangal Sirdar of each gang who makes the payment to the workmen under reference of that group. At all levels and stages there are illegal cuts and gratification in the wages of the workmen under reference. The result being that the individual workmen under reference get only a fraction of the lawful wages for the honest work done by them. The said system operated with the active connivance, collusion of the officers of the colliery, loading supervisors, Bill Clerks and Dangal Sirdars. In order to conceal the relationship of master and servant between the management of Sirka Colliery and the workmen under reference the management does not maintain any record of their employment. The said relationship of master and servant is established because the workmen under reference are working as wagon loaders permanently and continuously for a period of more than 5 years. They are working inside the colliery premises at the railway sidings of Sirka Colliery and they work with the tools provided by the management and the coal which they load on the railway wagons belong to Sirka Colliery. They directly perform the work of the management of Sirka colliery. They work side by side along with the workmen on record of the colliery and their work is directly supervised by loading inspector and other competent persons authorised by the management in this regard. The workmen under reference perform their jobs under direct control and supervision of the management and they have to carry out the job to the entire satisfaction of the management. The above facts will show that the workmen under reference are the employees of Sirka Colliery and the management is obliged under the law to maintain proper register and documents in respect of their employment to pay them their wages directly of the rate provided under the NCWAs. The statistics maintained by the management regarding the loading of coal into railway wagons in respect of certain period will show that the average amount of coal shown to be loaded by each workmen is abnormally high and several times more than the work load of 4.5 M.T. fixed by NCWAs. It will appear that in some cases individual workmen on record have been shown to have achieved workload of even 22 M.T. per day which is a manipulated figure as it is humanly impossible to load 22 M.T. of coal in a railway wagon by individual workman in 8 hours working day. The statistics maintained by the management regarding the workmen in reference that the amount of work shown again a workman on record is artificially inflated as it is also added to it the amount of work performed by one or more of the workmen under reference.

A complaint was filed by the union before the RLC(C), Dhanbad and thereafter a team consisting of the LFO(C), Hazaribagh, Dhanbad and Jharia jointly visited Sirka Colliery on 4-5-84. On the basis of spot verification and examination of workmen engaged in the job of wagon loading at the East and West Sirka railway siding established that

the workmen under reference were working as Wagon loaders during their visit. On the basis of the said enquiry by the team of LFO(C) a criminal prosecution was started against the officers of the management for the violation of the provision of the Payment of Wages Act, 1936. On the above plea it has been prayed on behalf of the workmen that the management be directed to treat the workmen under reference as their employees of Sirka Colliery and to maintain their proper service record and to pay them directly their statutory wages and all the benefits to which they are entitled.

The case of the management is that the reference is not maintainable inasmuch as it does not involve an industrial dispute within the meaning of Section 2(k) of the I.D. Act. There was never any relationship of employer and employee between the management of Sirka Colliery and the workmen under reference and as such the workmen under reference are not workmen under Section 2(s) of the I.D. Act. The sidings of Sirka Colliery where the wagons are loaded do not come within the purview of the definition of "mine" as contemplated under Section 2(j) of the Mines Act and the Central Govt. is not the appropriate Govt. for the same. The persons in the reference order are not persons employed in a mine and as such the Central Govt. is not the proper Govt. The Central Govt. has no authority or jurisdiction to make any direction directing the management to follow certain procedures and maintain statutory register under the purported exercise of its power under Section 10 of the I.D. Act. Under Section 10(1) of the I.D. Act appropriate Govt. exercises its administrative function but in the present case, Central Govt. has exercised judicial powers or quasi judicial powers not vested in it and has purportedly decided that the persons referred to in the reference order are wagon loaders of the management. The workmen did not raise any dispute with the management nor any demand was made on it before taking up the matter with the conciliation machinery.

The Parliament enacted Coal Mines (Nationalisation) Act, 1973 under which the coal mines were nationalised including Sirka Colliery. In November, 1975 the Central Govt. re-organised the coal industry in the public sector and Sirka Colliery then became a part of CCL and the CCL became a subsidiary of the holding company, namely, Coal India Ltd. At all relevant times Sirka Colliery was having two railway sidings for despatch of coal. The sidings were known as (1) West Sirka (2) Proper Sirka Siding (East Sirka Siding). During 1976 and May, 1983 coal was being despatched in a very large quantity by loading on trucks brought by the consumers besides despatch by railway wagons. The consumers used to make their own arrangement for loading of trucks. From June, 1983 the sale of coal by trucks was almost discontinued although to a small extent it continued even thereafter. At all relevant times the management had 336 wagon loaders of its relevant loading of coal into the wagons and they were on the company's roll. The wagon loaders are piece rated workers in Group III and their normal workload is fixed as 4.5 M.T. per working day. The arrangement made for wagons loading at the two railway sidings of Sirka Colliery are so good that the wagon loaders are able to achieve much higher output than the normal workload prescribed for them. There is hardly any load. Out of the said 336 wagon loaders on the company's record over 136 are usually posted at proper Sirka Siding and the remaining wagon loaders are posted at West Sirka siding and sometimes the numbers are adjusted between the two railway sidings according to the requirement from time to time. The wagon loaders under favourable circumstances earn their high wages on account of their performing work beyond normal work load prescribed for them under NCWA. The sponsoring union had sent a letter dt. 13-7-84 to the RLC(C), Dhanbad making false allegation that the 470 persons in reference are working and doing the job of wagon loading at Sirka Colliery along with other workers in guise of piece rated basis and that their wages are being booked in the name of other workmen and they are not being paid directly. On receipt of a letter from the RLC(C), the management denied the claims and

the allegation of the union. It was stated by the management that when the local sale of coal was in existence in the colliery, some outsiders were being engaged for truck loading by the consumers. Since these persons had no work some time after deputation of coal through trucks were stopped, an attempt was made by the sponsoring union to induce them into the services of the management by various illegal methods. The said persons referred in the reference had never worked in the job of wagon loading for the management and as such there was no question of payment of any wages directly to them. The management was maintaining the necessary registers in respect of its workers who were actually employed in the railway siding. The RLC(C) Dhanbad of 4th and 5th of May, 1984 deputed his LEO(C) to visit Saka Colliery and submit their report. The management was never informed of the inspection of the railway sidings by those officers or regarding any enquiry to be made by them. The LEO(C) had taken away some attendance registers and wage sheets for certain period. According to the management it is stated that at the time of the visit of the LEO Shri Shivanand Choudhury, Vice President of the United Coal Workers Union of Saka Branch furnished a list of 300 persons to the LEOs stating that they were working in Saka colliery siding as wagon loaders. The LEOs did not make any enquiry from any person in this respect and the LEOs took that list given by Shri Shivanand Choudhury as a correct list and started a criminal proceeding against the officers of the management under the payment of wages Act. There is disparity between the claim by the union in raising the present dispute and the complaint made by the LEO(C). The RLC(C) and his subordinates did not deal with the matter with an open mind and just manner and they were actuated by ulterior motive to favour the sponsoring union at the cost of the management.

The strength of wagon loaders already employed in Sirka colliery is more than adequate. Some wagon loaders numbering 90 who were rendered surplus in their adjourning Religia colliery due to closure of railway siding, were transferred to Sirka colliery in the month of May, 1985. The work of wagon loading at Sirka siding is being done only by the workman on record of the management. The management do not have any Dangal Sirdars and payment is not made through such Dangal Sirdars. The workmen in reference were never given any appointment by the owner, Agent or Manager of Sirka colliery nor any of the workmen and have not worked as wagon loaders, they are entitled of the mine.

The management has a scheme that workers who are disabled due to injury or disease on permanent basis resulting into the loss of employment would voluntarily retire subject to employment being provided to one of their dependents. Under such scheme 38 regular wagon loaders in the employment of the management voluntarily retired in July, 1985 and in their place 20 persons whose names are in the reference were already given employment as dependents of the previously employed regular wagon loaders of the management, the list of which is given in annexure 5 of the W. S. of the management. Under the circumstances it has been submitted on behalf of the management that as the workman in reference are not workmen of the management and have not worked as wagon loaders, they are entitled to no relief.

The points for determination in this case are :—

- (1) Whether the Central Govt. is the appropriate Govt. to make the present reference.
 - (2) Whether the subject matter of the dispute is in the nature of industrial dispute.
 - (3) Whether a demand was made by the workmen in respect of the matter involved in the dispute.
 - (4) Whether the concerned persons are the workmen of Sirka colliery
 - (5) Whether the management should pay wages to them directly and whether the management should maintain their records of employment.

The management have examined 6 witnesses and the workmen have examined 11 witnesses in order to prove their respective cases. The documents filed on behalf of the management have been marked as Ext. M-1 to M-18 and the exhibits on behalf of the workman have been marked as Ext. W-1 to W-10.

The first objection raised on behalf of the management is that the Central Govt. is not appropriate Govt. to make a reference. It is further submitted that under section 2(a) of the I.D. Act the State Govt. is the appropriate Govt. in relation to all industrial dispute except those that are enumerated in Section 2(a)(ii) of the Act. On perusal of Section 2(a)(i) of the Act it will appear that the Central Govt. is the appropriate Govt. in respect of a "Mine". It is submitted on behalf of that management that as such if the Railway siding is "Mine" then alone the Central Govt. would be the appropriate Govt. "Mine" has been defined in Section 2(lb) of the I.D. Act to mean a mine as defined in clause (j) of sub-section (1) of Section 2 of the Mines Act, 1952. The definition of Mines in the mines Act in clause 2(j) runs thus:—

"Mines means any excavation where any operation for the purpose of searching for or obtaining minerals has been or is being carried on and includes:—

- (vi) All adults, levels, planes, machinery, railways, tramways and sidings in or adjacent and belonging to a mine".

It will appear from a case reported in 1974 IAB I.C. case 805 that loading and unloading of iron ore is an activity connected with mining industry within Section 2(1b) of the I.D. Act and hence the Central Govt and not the State Govt is the 'appropriate Govt.' within Section 2(a)(1) of the I.D. Act to refer a dispute between employees and the management. The definition of 'appropriate Govt' has already been stated above. The activity of loading of coal from Cirkla mines to the Cirkla Colliery's site to which Section 2(a)(1) of the I.D. Act would apply and since the loading operation at the colliery of Cirkla Colliery is an activity connected with the mine, the Central Govt would

be the appropriate Govt. In view of the above I hold that the reference made by the Central Govt. to the Industrial Tribunal is within the jurisdiction of the Central Govt.

It is submitted on behalf of the management that the issue referred to the Tribunal in the order to the Secretary of Reference is not in the nature of industrial dispute. The argument is further expanded by the management by submitting that the question as to whether the employer should maintain any record relating to the workmen or not, cannot be said to involve the terms or condition of service to constitute an industrial dispute within the meaning of Section 2(k) of the ILD Act. The definition of Industrial dispute in section 2(k) means any dispute or difference between the employers and workmen which is connected with the employment or the terms of employment or with the conditions of labour of any person. In case of the workmen in reference is that they are working as Wagon Loaders under the management at Suka Colliery and as such the maintenance of their service records is the condition of their labour. The workmen in reference allege that the management is not maintaining any paper regarding their services although the management is maintaining all such records in respect of the wagon loaders on the roll of the company. I had discussed this matter in my earlier order dt 23-6-86 while deciding the preliminary points raised by the management in the W.s. It will appear that the maintaining of records by the management depends on the facts whether the wagon loaders in reference are the workmen of the management. If the wagon loaders in reference are the workmen of the management it is quite obvious that the records of employment are to be maintained by the management and if no such register is maintained the very basis of employment of the wagon loaders will have no evidence to show that they are the workmen of the management and as such it becomes almost a condition of service that then records of employment be maintained by the management who are alleged by the workmen in reference to be their employer. This is certainly a dispute between the employers and the workmen connected with their alleged employment and as such the matters referred to in the reference is an industrial dispute. In the above view of the matter I hold that the Central Govt. is the appropriate Govt. having jurisdiction to refer the matters in dispute included in the schedule of the order of reference which has been sent for adjudication to this Tribunal.

Yet another objection of the management is that the workmen had made no demand to the management in respect of the dispute which has been referred to the Tribunal for adjudication. I think the said objection made on behalf of the management does not stand on a sound footing. The workmen have tried to show vide Ext. W-1 dt 24-8-83 that the workmen had made a demand to the management. This document has been proved by the Secretary of the sponsoring union WW-10. He has, no doubt, stated in his cross-examination that he has no document with him to show that the original of Ext. W-1 was received by the management. Another document is Ext. W-2 dt 8-5-84 addressed to the ALC(C) by the union. Admittedly no copy of Ext. W-2 was sent to the management. Ext. M-1 dt 26-4-84 is a letter from the RLC(C) to the management with a copy to the union requesting to furnish the particulars of workers in 5 copies. It appears therefore that the RLC(C) had received the letter of the workmen dt 8-5-84 and had requested that the union should furnish the particulars in 5 copies in proforma supplied. It is clear therefore that the workmen had sent the letter dt 8-5-84 to the RLC(C) and that the RLC(C) had sent a letter dt 8-5-84 to the Chairman-cum Managing Director of M/s. CCL and the Project Manager, Suka Colliery. It is clear therefore that the management had been informed of the demands being made by the workmen. Moreover, the management's contention that no demand was made by the workmen is now irrelevant in view of the fact that there was a conciliation proceeding before the Conciliation Officer in respect of the demands of the workmen in which the management participated and both the management and the union put forth their respective cases in writing and had made representations in support of their respective cases. The management therefore had become fully aware of the matter which was being demanded by the workmen. In the above view of the matter I hold that formal demand had

been raised by the union before the management and that the objection raised on behalf of the management does not appear to be correct.

According to the case of the Workmen it will appear that there are 2 large bodies of workers engaged in the loading of coal at the Suka Siding. One is the regular work force of the management which we shall refer hereafter as workmen on the roll and the other who are employed in the loading of coal at the Suka Siding but there is no record of their employment maintained by the management and they are hereafter described as workmen in reference. It is the case of the workmen in Reference that the management do not maintain their record regarding their employment and they are not paid wages equal to that of the wages which are being paid to the workmen on record. The workmen in reference are paid through the workmen on the record from the wages received in their names. Admittedly there is no record of any employment of the 470 workmen in reference and none of the records of the management have shown their employment as Wagon loaders. According to the management as stated in para-12 of the management's W.S. the management claims that the number of wagon loaders engaged in the loading of coal on the wagons at the Two Suka Railway sidings was 336 wagon loaders at all relevant times. It is submitted on behalf of the management that the said numbers of 336 wagon loaders on the roll of the company is more than adequate and is such there was no necessity of further wagon loaders and the workmen in reference never worked in Suka sidings. Wagon loaders. The workmen in Reference have adduced oral evidence of WW-3, WW-5, WW-6 and WW-7 who are the workmen in reference and have further examined WW-2, WW-8 and WW-9 who are wagon loaders on the company's roll. Besides that they have also examined the LFO(C), WW-11 and have produced his inspection note Ext. W-6. The workmen have also tried to establish by arithmetical calculation that the management actually required much more wagon loaders than 336 wagon loaders on the company's roll as asserted by them on the basis of the coal despatch from Suka Colliery sidings, absenteeism of the workmen etc.

Before discussing the evidence and the circumstances on the above matter I would first like to state briefly the procedure for loading of coal at the Suka sidings which have been disclosed from the evidence in the case. The parties are almost agreed on the point of the procedure for loading of coal on the wagons at the Suka Siding. The only point of difference between the workmen and the management in respect of the procedure for loading is in respect of quantum of stacking of steam coal. It is admitted and the same will be clear from the evidence of the witnesses that the coal brought from the pit head and dumped at the railway siding is called ROM (Run of Mine). The ROM is a mixture of 40 per cent Steam coal and 60 per cent of Slack coal. According to the workmen before the coal can be loaded in the Railway wagon for despatch, steam coal has to be screened from the ROM and stacked in separate heaps and the slack coal is left behind as residuary which is stacked into heaps. It is asserted on behalf of the workmen that the screening and stacking are 2 complete distinct and separate operations than the wagon loading and that screening and stacking are the pre requisite before loading of coal into wagons as ROM is never despatched from the Suka Colliery. It has also come in the evidence that in one rake only one variety of coal i.e. either steam or slack coal is loaded. WW-2 has stated that the wagon loaders are paid for stacking steam coal also MW-2 at page-8 of his deposition has stated that from the stage of ROM received at the siding there are two processes or operation namely stacking and screening and secondly loading and if a loader fulfills the screening and stacking of 4.5 tonnes of coal he satisfies the minimum work load. It is clear from the evidence of the MW-2 that when ROM is received at the siding first the stacking and screening of coal has to be done and thereafter the second operation, namely of loading of coal in the wagons is done. It will also appear that a wagon loader fulfills the task in 1.75.1. load of 4.5 tonnes of coal if he either screens and stacks 4.3 tonnes of coal or he loads 4.5 tonnes of coal. The management has referred to the evidence of WW-1 at page 6 of his deposition, WW-1

has stated that the steam coal is loaded in the wagons through baskets and the baskets are filled with coal by means of fork, shovel and that the small pieces of steam coal known as slack coal is left below and the slack coal left over is stacked at the siding and the wagon loaders are paid for stacking of slack coal.' Earlier WW-1 has stated that stacking is a distinct and separate operation than wagon loading and the same fact has been stated by MW-2. The case of the management is that when wagons for loading steam coal are not placed then stacking of steam coal is done and this stacking is separately reckoned as work done by a wagon loader in the wage sheets but if the wagons for steam coal are placed at the siding at the place where R.O.M. is dumped no stacking of the steam coal is involved. It is stated that the coal is lifted by fork, shovel and put in the baskets, and that the bigger lump of steam coal are separated from slack coal and thereafter it is filled in the basket and loaded on the wagons. MW-2 at page 8 has stated that it is not known as to when or at what time the rakes will be supplied by the railways and it is also not known from before as to what variety of coal has to be loaded on the rake which has to be placed on the siding on the particular day. MW-2 at page 3 has stated "when the rakes are placed the railways instruct whether slack coal or steam coal has to be loaded on the rakes" as such it cannot be pre-conceived that the rake is being placed at the sidings for loading of steam coal and as such the case of the management that when R.O.M. is dumped at the sidings and if a rake for steam coal is placed the steam coal is directly loaded in the wagons after picking up the big lumps of steam coal from the R.O.M. does not appear to be very convincing. Moreover, the submission made on behalf of the management is not in accordance with the actual evidence adduced on behalf of the management itself. Even if accepting the management's case on the point it will be only a very insignificant part of the steam coal being directly loaded from the R.O.M. without stacking and screening the steam coal from the slack coal. This controversy is important for the purpose of showing whether 40 per cent of the steam coal are screened off and separately stacked and this would increase the work load of the wagon loaders. The evidence which has been established show that for loading 100 tonnes of coal (Steam and Slack) it is necessary that 40 tonnes of steam coal had earlier been screened and separately stacked and as such when 100 tonnes of coal is loaded in a wagon it is implicit that the total workload of stacking plus loading carried out by the workmen is 140 tonnes and thus it would thus increase the work load of the wagon loader from the work of loading of coal only in the wagons.

According to the management the regular work force was 336 at all relevant times. The management, however, in evidence has tried to show that till July, 1983 there were 310 wagon loaders, from July, 1983 335 wagon loaders and from May to June 1985 440 wagon loaders. But we are concerned with the number of the wagon loaders at the time of the dispute or say at the time of reference in June 1985. As it is admitted by the management that at the relevant time the number of the wagon loader was 336, there is no need to go into further details of the evidence in the case and I hold that there were 336 wagon loaders on the company's roll at the relevant time of the dispute in this case.

It was tried to be shown by the management by arithmetical calculation that the existing work force of the wagon loaders on their record was more than the adequate for their work and that if 470 workmen's name in the reference are added it would lead to the reduction in the workload to much less than the normal of 4.5 tonnes per wagon loader per day. The arithmetical calculations made by the management did not consider some of the very important premises which would change the result of the calculation. The management did not take into consideration in their arithmetical calculations regarding the account of stacking of 40 per cent steam coal from the R.O.M. If 160 tonnes of steam and slack coal are shown to have been loaded into railway wagons the total work load would be 100 tonnes of coal loaded plus 40 tonnes

stacking of steam coal and the total work load would be 140 tonnes. The work load of 40 tonnes of stacking of steam coal was not calculated by the management. The management's calculation regarding the effective work force was based on the rate of absenteeism at the rate of 15 per cent but the evidence on the record which has been established from the management's own record is that the rate of absenteeism among the wagon loaders was much but in any case the absenteeism was not less than 25 per cent. (Vide Ext. M-18/9). If the calculation is made taking the rate of absenteeism as 25 per cent the calculation made on behalf of the management will itself show that the work load was much higher than shown by the management. It is true that there are many factors which come in the way in the calculation regarding the number of regular work force for wagon loading and the arithmetical calculation made cannot take us to a definite calculation. It will only lead to an approximate result. The management has also made criticism regarding the arithmetical calculation made on behalf of the workmen. It has been stated that the workmen have made their arithmetical calculation on the basis of workload of 4.5 tonnes per wagon loaders per working day. According to the management the workload of 4.5 tonnes of a piece rated wagon loader is only the minimum work load prescribed so that the wagon loader may earn one day's wages but the workmen are given incentive by way of more payment of wages if they work more than the minimum fixed work load. The management say that the wagon loaders used to load much more than the minimum workload of 4.5 tonnes in order to earn more wages and as such the calculation made on behalf of the workmen at the rate of 4.5 tonnes per wagon loader cannot reach us to a correct calculation. In my opinion the said submission made on behalf of the management appears to be quite sound. A calculation was made by the parties regarding the time taken in loading of basket of coal in the wagon. There are so many factors which have to be considered regarding the time taken in loading the coal by the wagon loader in the wagon. Man is not a machine so as to make the calculation a perfect one. The calculation of time taken in loading of coal per trip by wagon loader cannot be accurate and it may take us to some approximate timing taken in the loading of coal. Thus the attempt made by either of the parties to arrive at a certain conclusion regarding the adequacy of the company's work force in respect of the coal despatched from the sidings cannot be accepted as gospel truth. However, on close scrutiny of the evidence, circumstances and the facts it appears that the work force of 336 wagon loaders for loading the coal of the Sirkha colliery from the Sirkha sidings was inadequate and that some more wagon loaders must have been engaged to complete loading of coal at the Sirkha sidings.

The workmen have calculated the work force on the basis of 1.5 tonnes even in Ext. M-17 for the years 1981 to 1985 and have calculated the same in their notes of argument to show that the management required wagon loaders more than the wagon loaders on the roll of the company. I have already stated about the loop holes in the arithmetical calculation made by either of the parties, but I have already stated that the calculation figures do not indicate that the management require more wagon loaders than their names on the roll.

In connection the workmen have examined WW-3, WW-5, WW-6 and WW-7 who are among the persons named in the reference. They have all stated that they are working as wagon loaders at Sirkha Sidings since a few years but they are not on the records of the management and that they are not paid directly by the management but their wages are paid through the wagon loaders on the record of the management working in the ground along with some workmen in reference. Admittedly there is no document in support of the facts being stated by these witnesses. They are supported by the oral evidence of WW-2, WW-8 and WW-9 who are admittedly wagon loaders on the roll of the company. WW-4 is a shale picker who was formerly working as wagon loader and he has also supported the case of the claimants in reference. On the other hand the management could not examine even a single wagon loader to show that the facts being stated by the workmen's witnesses were false. The truth of the evidence of the

evidence of the witness has been tested by the management by calling into their detailed cross-examination but what has been elicited is that the witnesses are quite familiar with working of the officers of the Sirka sidings. I do not find any material to discredit the fact that some of the persons named in the reference are working as wagon loaders at the Sirka sidings. It will appear from the evidence that the wagon loaders on the rolls of the company are getting more benefits in the shape of their enhanced wages because of the work of loading being done by wagon loaders other than the wagon loaders on the roll of the company. It has come in the evidence of WW-6 that the workmen in reference are paid less as wages for loading coal and the excess of the amount, actually goes in the share of the wagon loaders on the roll of the company. It is quite possible that none of the wagon loader, on the company's rolls are coming forward in support of the case of the management as they would be incurring a loss in their wages if they deny that the workmen in reference are not working as wagon loaders.

Most important piece of evidence and almost the trump card of the case of the workmen in reference is the evidence of the LEO(C) Shri Vasisth, WW-11 and Ext. 6 which is the statement of the wagon loaders taken by WW-11 on 4-5-84. It will appear from the evidence of WW-11 who is the LEO(C) of Hazaribagh that as LEO(C) he is also an Inspector under the Payment of Wages Act and that Sirka colliery is within his jurisdiction. He has stated that on 4-5-84 he accompanied by Shri Gopaljee, LEO(C) Dhanbad and Shri N. S. Panwar, LEO(C) Jharia had inspected Sirka colliery on the direction of the RLC(C), Dhanbad. The said team had been formed by the RLC(C), Dhanbad for inspection and as such it cannot be said that the LEOs were somehow interested in the inspection of Sirka colliery or were prejudicial against the management and hence they had made inspection of the Sirka sidings. WW-11 has stated that at about 10.00 A.M. on 4-5-84 he contacted the Sr. Personnel Officer (W-1 Shri S. R. Choudhury) and told him of his intention to inspect the Sirka sidings and requested for his cooperation but MW-1 expressed his inability to cooperate and told him to come for inspection on some other day. It will appear from the evidence of MW-11 that he inspected some contractors for sometime and at about 4 P.M. he along with 2 other LEOs inspected first the Sirka proper siding and then Sirka West Siding. He has stated that he found the wagons placed in the siding and many loaders loading coal in the wagons. The wagon loaders told him that they are working as wagon loaders since 5 to 10 years but they are not directly paid their wages and that their names are not included in the Form B Register of the management. They also told him that they are getting less wages. He has stated that he noted their statements in Ext. W-6 and took the LT of the wagon loaders in support of the act that the statements as taken down by him were the statement of Wagon loaders. WW-11 had taken the statement of about 300 wagon loaders at the 2 Sirka sidings. He has stated that there were other wagon loaders working in the loading of wagons but he did no record their statement as it had become very late and it was about 11.00 P.M. Ext. W-6 is dt. 4-5-84 and at the top of it a joint statement of the workmen is written and thereafter the names of the wagon loaders is stated Dangalwise. To the end of Ext. W-6 there is signature of LEO Shri Gopaljee and LEO Hazaribagh Shri Vasisth, WW-11. The third LEO(C) does not appear to have signed in Ext. W-6. WW-11 has stated that upto serial no. 4 in page of Ext. W-6 the writing is in his pen, from Sl. No. 3 to Sl. No. 95 the writing is in the pen of Shri. Gopaljee, Sl. No. 96 to Sl. No. 214 is in the writing of Shri Panwar and then again from Sl. No. 215 till the end i.e. Sl. No. 300 is in the Pen of WW-11. Thus this evidence of WW-11 shows that all the three LEOs were present at the Sirka Sidings and they had all participated in the taking of statement and the LT. Is of the wagon loaders actually loading the wagons at the Sirka Sidings. On comparison of the names of the wagon loaders in Ext. W-6 and the names of the workmen given in the reference it will appear that 110 names of wagon loaders in Ext. W-6 tallies with the names of the workmen named in the reference. The comparative Sl. Nos. of the workmen given in the LEO's list and reference order list are stated in Chart-6.

It is clear therefore that 110 of the workmen named in the reference were actually found working in the work of loading at the Sirka sidings by the LEO. It appears that the LEOs had noted down the names of 300 persons who were working as wagon loaders at the time of inspection but the names of the rest are not stated in the reference order. The explanation given on behalf of the workers is, that those extra persons were not regular work force employed as wagon loaders and as such their name are not entered in the order of reference. Whatever might be the reason, the fact remains that a large number of wagon loaders besides the wagon loaders on the roll of the company were actually found loading coal at the 2 Sirka siding, and out of them atleast 110 are those whose names are mentioned in the order of reference.

Para-18 of the W.S. of the management itself stated that the sponsoring union sent a letter dt. 13-7-84 to the RLC(C), Dhanbad making false allegation that the 470 persons referred to in the annexure to the reference order are working and doing the job of wagon loading at Sirka colliery along with other workers in gang on piece rated basis and that their wages are being booked in the name of other workmen and they are not being paid directly and the registers relating to their employment are not being maintained. In para-19 of the W.S. of the management it is stated that on receipt of a letter from the RLC(C), Dhanbad the management denied the claim. From para-20 of the W.S. it will appear that the RLC(C), Dhanbad had deputed on 4th and 8th of May, 1984 even before the union had written to him on 13-7-84 his four LEO(C) to visit Sirka colliery and submit their report. It is further stated that the management was never informed of the inspection by these officers of any enquiry to be made by them. It is also stated that the LEOs had taken away some attendance register and wage sheets for certain periods and at that time Shri Shibanand Choudhury, Vice President of United Coal Workers Union of Sirka Branch who was the local representative of the sponsoring union had furnished a list of 300 persons claiming that they were working in Sirka colliery siding as wagon loaders. The said Shibanand Choudhury has been examined as WW-1 in this case and he has denied to have supplied the list containing 300 persons working in Sirka colliery sidings. WW-1 it appears was present at the time of inspection on 4-5-84 and he had actually signed at the end of Ext. W-6 but that does not mean that he had supplied the list of 300 persons. It appears from the evidence of WW-11 and Ext. W-6 that the said Ext. W-6 was prepared in the writing of three of the LEO's at the Sirka sidings, and that there is no denial that the staff writing are not in the pen of three LEOs. Thus it cannot be said that WW-1 has supplied the list in Ext. W-6 to the LEOs.

MW-11 was a statutory person. The management has shown no reason as to why WW-11 would be giving a false report against the management and will be filing a false prosecution against the officers of the colliery. One could have understood the interest of WW-11 if it had been shown that he had any grudge against the officers of Sirka Colliery or that he was in any way interested in the sponsoring union or the workmen whose names he has stated in Ext. W-6. I do not find any reason to disbelieve WW-11 and I hold that he is a truthful witness and that he had seen wagon loaders loading the wagons at the time of his inspection whose names are stated in Ext. W-6.

The case of the management is that the loading work had been completed on 4-5-84 by 5.30 P.M. and in such WW-11 or his other companion LEOs did not inspect the Sirka siding. In support of the said fact the management have examined MW-1 Shri S. R. Choudhury, Sr. P.O. posted in Sirka Colliery on 4-5-84. He has stated that he had met the LEO(C) Shri Vasisth on 4-5-84 at 5.30 P.M. in his office and that he told him that as the loading work had already been completed there were no workers at the siding.

d as such there can no inspection that day and thereafter LEO left the place saying that he would come some her day. Thus according to MW-1 Shri Vasisth had not inspected the siding on 4-5-84 as loading work had already completed by 5.30 P.M. MW-1 who was sitting in his diary office from where the Sirka west siding is not visible as such it was not possible for him to say that the ading work had already completed by 5.30 P.M. The most iportant document in this connection is Ext. M-12 which the wagon placement register. It is disclosed from Ext. M-12 of 4-5-84 that on that date wagons were supplied at rka West Siding at 11.30 hours and at proper Sirka sidings 12.15 hours. The loading work could not have been commenced during the hot noon hours and would commence the afternoon around 4 P.M. on 4-5-84 as it was a month of May when the noon time is very hot and as such it is quite possible as stated by MW-2 that during season at noon the loading of coal was not done after the placement of the wagons at proper Sirka and West Sirka sidings at noon time. This would further show that as the wagons were placed some time in the noon, the loading work could not have been finished by 5.30 P.M. as admittedly it takes about 7 to 8 hours to load the wagons. One of the witnesses MW-5 has stated that it takes 6 to 7 hours to load a wagon and according to MW-3 it takes about 8 to 9 hours to load a wagon. It will thus be clear that the loading work could not have been completed on 4-5-84 prior to 5.30 P.M. It is stated by the management that the loading hours at Sirka Siding are from 6 A.M. to 6 P.M. so even according to the evidence of the management witnesses the wagons must have continued to be loaded till 6 P.M. as it was not possible to load the wagons between 12 Noon and 6 P.M. taking into consideration that no loading work is done at the peak hot noon hour of the summer months. It is clear therefore that MW-1 has not stated the truth about the fact that the loading of the wagon had been completed by 5.30 P.M. on 4-5-84.

A controversy has been raised between the parties regarding the loading hours at the sidings. According to the evidence of MW-2 MW-3, MW-5, MW-6 the loading hours at the siding are from 6 A.M. to 6 P.M. The workmen on the other hand submit that the loading hours are from 6 A.M. to 10 P.M. The importance of this loading hours is in the fact that WW-11 had seen the wagon loaders loading wagons till late at night even upto 11 P.M. on 4-5-84 and the management have tried to falsify him on the plea that the loading had completed by 5.30 P.M. WW-4 who is the management's shale picker has stated that if the wagons are placed late at the siding the loading may continue even after 10 P.M. The management could have produced the notice fixing the loading hours at the siding as the Sirka sidings are covered under the definition of 'Mines' and the management was bound to have published the said notice about the fixing hours at the loading site under the Mines Act. The non-production of the said notice may be taken adversely against the management as being indicate that the notice did not show the loading hours between 6 A.M. to 6 P.M. and it may have shown the loading hours between 6 A.M. to 10 P.M. The workmen have filed a circular of the Eastern Railway Dt. 10-3-62 showing the introduction of 5 hours free loading time between 6 hours to 22.00 hours in order to support that the loading hours at the sidings are from 6 A.M. to 10 P.M. The said circular has not been exhibited and had only been marked at "Z" for identification and as such the said document cannot be used for the purpose of coming to a conclusion that the loading hours at the sidings are from 6 A.M. to 10 P.M. The fact that MW-11 had seen the wagon loaders loading the wagons at the Sirka sidings late in the night even after 10 P.M. supports the case of the workmen that the working hours at the sidings are from 6 A.M. to 10 P.M. That is what MW-11 had found the wagon loaders loading the wagons till late in the night on 4-5-84 the wagons had been placed at about middav and due to summer heat the work of loading must have stopped for a few hours.

The learned counsel for the management has led great emphasis on the inspection of the LEO(C) on 8th May, 1984 and 9th May, 1984 in order to show that WW-11 was not a reliable witness. It will appear from Ext. W-6 that WW-11 had inspected the Sirka sidings on 4th May 1984 and had taken the statement and the I.T.I. of the Wagon loaders

engaged in the wagon loading. The Inspection dated 8th May, 1984 is entirely of a different matter. WW-11 has stated in his evidence that he did not make any inspection of the Sirka siding on 8th May, 1984 and that he had visited the establishment of Sirka colliery in presence of Shri S. C. Choudhury, Sr. P.O. (MW-1) and had checked some registered and had found the irregularities which form the subject matter of the inspection note dated 8th May, 1984 and marked Ext. W-7 in the case. He also seized documents on that day and the seizure memo is Ext. W-8. The management's learned Advocate has, greatly stressed on the over-writings in the dates and it is stated that originally Ext. W-7 was dated 9th May, 1984 and that it was subsequently overwritten as 8th May, 1984. On perusal of Ext. W-7 it appears that there has been an over writing in the date which is explained by WW-11 by saying that as originally the date was wrong, it was corrected as 8th May, 1984. Whatever may be date of Ext. W-7 and Ext. W-8 that is besides the matter in controversy and the present case is based on the inspection note dated 4th May, 1984 Ext. W-6. The controversy regarding the change in the date of Ext. W-7 and W-8 is totally irrelevant so far inspection held by the LEOs on 4th May, 1984 as such so far the inspection by the LEOs of the Sirka siding on 4th May, 1984 is concerned the same is not affected by the inspection dated 8th May, 1984 or 9th May, 1984.

It has been submitted on behalf of the management that the evidence of the workmen in reference examined before the Tribunal is not acceptable. WWs has stated that they had some chits to show the work done by them and they kept rough accounts of the work done by them. Admittedly none of the chits have been produced by the workmen. It is apparent from the evidence of the witnesses examined on behalf of the workmen that the workmen in reference are completely illiterate and it appears that some indicative accounts were being maintained so that the workmen may understand as to what amount they have to receive for the work of loading done by them. It was not an account in the regular manner in which exactly the date, name, work done and the account of a particular wagon loader was noted in the chits. Even if those chits had been produced before the Tribunal probably it would have been improbable to come to any conclusion regarding the work done by the wagon loaders and the amount received by them. Those chits were just for the purpose to see that the workmen get the wages of the work of loading done by them and it was not such an important paper which had to be preserved. Moreover those chits were not in the writing of any of the officers so as to bind the management regarding the matters contained in the chit. Those chits were written by the workmen themselves and even if produced, the management would have been at liberty to criticise those chits as being manufactured for the purpose of the case. As such non-production of those chits cannot be taken serious notice in order to falsify the case of the workmen and the evidence of the WWs.

From what has been discussed above I have only come to the conclusion that at the Sirka Sidings there were wagon loaders working besides the management's wagon loaders on roll. It will appear from Ext. W-6 that 110 of the wagon loaders named in the reference were found engaged in the wagon loading by WW-11 on 4th May, 1984 besides other wagon loaders. Thus there is evidence to show that atleast those 110 wagon loaders were actually working at the Sirka sidings of the management. The evidence of WW-2, WW-3 shows the names of serial no. 180, 346, 333 and 331 of the reference who were working along with them but it will appear from Ext. W-6 that out of them only Babulal who is at Sl. No. 333 of the reference was found working as wagon loader and his name is at Sl. No. 64 of LEOs Ext. W-6. The evidence of WW-4 shows Shyamdeo, S. No. 130 of the reference working as wagon loader and in Ext. W-6 the LEO(C) had found Shyamdeo working at the time of inspection and his name is at Sl. No. 231. WW-5 has named wagon loaders at Sl. No. 93, 61, 97 and 361 of the reference who were working as Wagon loader. But MW-11 had found only Sl. No. 97 and Sl. No. 361 working as wagon loader at the time of inspection and he has stated their names at Sl. No. 31 and 56 of Ext. W-6. WW-6 has named in his evidence wagon loaders at Sl. No. 60, 11, 13, 15, 10 and 16 of the reference out of whom the LEO(C) found Sl. No. 60, 11, 10 and 13 working as wagon loader at the Sirka sidings at the time of his inspection and has noted their names in Sl. No. 17, 18, 19 and 30 of Ext. W-6. WW-7 has named Sl. No. 54, 470 and 138 of the reference working as

loader but the LEO(C) found Sl. No. 476 and 130 of the reference, working at the Sirka Siding at the time of his inspection and he has stated their names at Sl. No. 53 and 59 of the Ext. W-6. WW-9 named Sl. No. 254, 339 and 337 of the reference working as wagon loaders but the LEO(C) had found only Sl. No. 339 of the reference working as Wagon loader at the time of his inspection and he had stated his name at Sl. No. 249 of Ext. W-6. WW-1 named the workmen at Sl. No. 243 and 34 besides others who were not workmen in the reference but at the time of inspection of WW-11 workmen at Sl. No. 243 and 54 of the reference were not found working at the time of his inspection and as such he has not stated their names in Ext. W-6. Thus he find that out of the 23 names of workmen in reference stated by WWs, the LEO(C) found only 11 of them working as wagon loader at the time of his inspection. These 11 persons named in Ext. W-6 by WW-11 are out of the list of 110 wagon loaders who are amongst the 470 workmen in reference. The evidence of WW-1, WW-2, WW-3, WW-4, WW-5, WW-6, WW-7, WW-8 and WW-9 has disclosed the names of 23 of the workmen in reference out of whom 11 are in Ext. W-6. Thus we find that there is evidence in respect of 110 plus 12 workmen named in the reference and there is no specific evidence in respect of other workmen named in the reference.

Annexure 5 to the W.S. of the management gives particular showing the statement of persons offered employed under para 9.4.3 of NCWA-III at Sirka colliery as dependents of infirm wagon loaders. The persons who have been given employments are workmen at Sl. No. 175, 78, 67, 380, 306, 468, 38, 353, 87, 88, 35, 63, 272, 310, 13, 376, 318; 309; 253 and 298 of the reference. Thus it appears that 20 of the workmen named in the reference have already been given employment by the management and as such there can be no dispute of those workmen who have already been given employment as loaders. Out of these 20 persons named in Annexure-5 to the W.S. of the management the LEO had found Sl. No. 13, 35, 67, 272, 309, 468 and 55 working as loaders at the time of inspection. Thus out of 110 of the list of the LEO(C) seven out of them have been given employment by the management who were found working as wagon loaders and if the number of those 7 persons is taken out from 110 of the list of the LEO(C) it will appear that 103 of the said list who are named workmen in the reference are still not given any employment. Thus there is evidence to show that 103, of the list of the LEO(C) plus 12 of the wagon loaders whose names have been stated by the witnesses are working as wagon loaders and in whose favour there is sufficient oral evidence on the record. So far the other workmen named in the reference, I find no evidence at all so as to come to a definite finding that they are the workmen working at Sirka sidings. What I mean to say is that they may or may not be working as wagon loaders at the Sirka sidings but so far I am concerned I find no evidence on the record to come to a definite conclusion. It is not possible for me to conclude that those workmen named in the reference in whose favour there is no evidence on the record are wagon loaders working at the Sirka siding and as such I refrain from giving a finding in their favour.

Thus my definite finding is that Sl. No. 118, 209, 302, 338, 5, 4, 34, 333, 109, 150, 76, 10, 148, 343, 259, 448, 59; 466; 249, 267, 22, 94, 205, 8, 326, 411, 97, 149, 189; 342; 142; 429; 183; 381, 330, 327, 50, 159, 295, 366, 395, 442, 344, 339; 297; 103; 43, 95, 168, 457, 444, 141, 192, 470, 386, 96; 31; 73; 321, 385, 131, 238, 382, 37, 443, 190, 65, 106; 305; 155; 445, 80, 85, 293, 288, 60, 11, 18, 49, 287, 361; 138, 113, 24, 105, 62, 20, 417, 369, 33, 130, 356, 72, 296; 311; 415; 413, 187, 243, 100, 199, 318, 9 and Sl. No. 180, 346, 331, 93, 61, 15, 16, 54, 254, 337, 243 and 54 of the order of reference are the workmen of Sirka colliery working as wagon loaders since sometime and as such the management should pay wages to them directly which they are entitled. The management should verify the identification of the above persons by obtaining the certificate of their proper identification by the Mukhiya and the B.D.O./Circular Officer of the area concerned with affidavit of the above workmen of the reference. It is needless to say that the management must maintain their records of employment henceforth.

In the result, I hold that the above Sl. Nos. of the order of reference are the workmen of Sirka colliery of M/s CCL working as wagon loaders and the demand of United Coal Workers Union that they should be paid appropriate wages

directly by the management of Sirka colliery of M/s. C.C.L. and that their records of employment should be maintained properly by the said management is justified.

This is my Award.

Dated : 26-6-1987.

J. N. SINHA, Presiding Officer
[No. 1-20012/335/84-D.III(A)]
P. V. SREEDHARAN, Desk Officer

का. आ. 1957—भौद्योगिक विवाद प्रतिनियम, 1947 (1947 का 14) की घरा 17 के अनुसरण में, केन्द्रीय सरकार, असेमिन बैंक नेवलीट एन. वी., बंबई के प्रबंधताते थे मालद तियोजकों द्वारा उनके कर्मकारों के लिए, अनुबंध में तिवारी भौद्योगिक विवाद में केन्द्रीय सरकार भौद्योगिक ग्राहकरण संघर्ष — 1, बंबई के पंचायत को प्रकाशित करती है, जो केन्द्रीय सरकार का 7 जुलाई, 1987 को प्राप्त हुआ था।

S.O. 1957.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, No. 1, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the Algemene Bank Nederland N.V., Bombay and their workmen, which was received by the Central Government on the 7th July, 1987.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I AT BOMBAY

Reference No. CGIT-26 of 1986

PARTIES :

Algemena Bank Nederland, Bombay-23.

AND

Their workmen.

APPEARANCES :

For the Management—Mr. R. S. Pai, Advocate and Mr. Damauja, Advocate.

For the Workmen—Mr. Waingaonkar, Advocate.

INDUSTRY : Banking

STATE : Maharashtra

Bombay, the 23rd day of June, 1987

AWARD

The dispute referred for adjudication to this Tribunal is “Whether the action of the management of Algemene Bank Nederland N.V., Bombay in retiring Shri Chandradeo Pathak, an ex-sub-staff w.e.f. 1st July, 1984 is justified? If not, to what relief is the workman concerned entitled?”

2. The workman, Shri Chandradeo Pathak joined the opponent Bank on or about 1st May, 1950 as a Peon. In the bio-data form filled-in at the time when he was employed, his date of birth was recorded as 1-1-1922. On the basis of that date of birth, he was due for retirement on 1-1-1982. According to the workman, as the bio-data was filled-in on the basis of the oral instructions given by him, he and other workmen whose bio-data forms were similarly filled

in were directed by the management to produce written proof of dates of birth and accordingly, he supplied his date of birth by producing a horoscope which mentioned his date of birth as 30th December, 1926. It is further his case that on the basis of the said horoscope, the Manager of the Bombay Branch of the Bank ordered to enter the said date in the bank's record pertaining to him and on the basis of that entry, the date of his retirement was fixed as 1-1-1981. But he was prematurely retired from service from 1st July, 1984 at the instance of one Shri Nair, an officer working in the personnel department of the Bank.

3. The Bank denied that the workman was prematurely retired at the instance of Shri Nair. According to the Bank, the workman was continued after 1-1-1982 because they were awaiting guidelines from the Indian Banks Association in the matter of entries relating to date of birth and as the guidelines directed that the date of birth once furnished by an employee at the time of his appointment is not subject to any alteration, after receipt of these guidelines, the workman was retired from service, on the basis of his original date of birth. The Bank denied that on the basis of the horoscope tendered by the workman, the date of the retirement of workman was fixed as 1-1-1987.

4. Parties led oral and documentary evidence to substantiate their respective contention. But at the fag end of the arguments, they settled the dispute amicably and filled a joint memo containing terms of settlement and prayed that an award in terms of settlement be passed and the reference disposed of accordingly. The terms of settlement as incorporated in joint memo are as follows :—

- (1) The Algemene Bank agrees to pay to the workman Chandradeo Pathak an ex-gratia amount of Rs. 20,000/- (Rupees Twenty Thousand Only) in full and final settlement of all claims of the workman against the Bank including his claim for reinstatement, re-employment or otherwise.
- (2) The said payment will be made to the workman at the main office of the bank on or before 25th June, 1987.
- (3) The workman declares that on receiving the said sum, he will have no further claims of any nature whatsoever against the bank either as demanded in the above Reference or otherwise."

5. As stated in the joint memo, the settlement is fair and proper and is completely in the interests of both the parties. Under this settlement the Bank has agreed to pay to the workman, an ex-gratia amount of Rs. 20,000/- in full and final settlement of all claims of the workman against the Bank. Even on his own showing and on the basis of the date of birth furnished by him, the workman would have retired on 30-12-1986. Obviously, therefore, he would not have been reinstated in service even if he had succeeded in this matter. The only relief he could have obtained is his salary alongwith other consequential benefits for the period from 1-7-1984, the date on which he was retired till 30th December, 1986.

6. Hence award in terms of settlement.

M. S. JAMDAR, Presiding Officer
[No. L-12012/115/85/D.IV(A)]

Encl :—Settlement Copy.

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL, BOMBAY

Ref. CGIT No. 26 of 1985

Algemene Bank

AND

Chandradeo Pathak

May it Clear the Favourable Tribunal

The Algemene Bank and the workman concerned Shri Chandradeo Pathak have mutually settled the above dispute as per terms recorded hereinbelow. The said settlement is fair and proper and acceptable to both parties. It is prayed that this Humble Tribunal be pleased to make an award in terms of this settlement and dispute off the reference accordingly.

Dated this 23rd June, 1987.

For Algemene Bank

| | |
|-------------------|----------------------|
| Sd/- Illegible. | Sd/- Illegible. |
| Personnel Manager | Advocate for workman |
| Sd/- Illegible. | Sd/- Illegible. |
| Advocate for Bank | Workman abovenamed |

Terms of Settlement

- (1) The Algemene Bank agrees to pay to the workman Chandradeo Pathak an ex-gratia amount of Rs. 20,000/- (Rupees Twenty Thousand only) in full and final settlement of all claims of the workman against the bank including his claim for re-instatement, re-employment or otherwise.
- (2) The said payment will be made to the workman at the Main Office of the bank on or before 25th June, 1987.
- (3) The workman declare that as receiving the said sum he will have no further claims of any malice whatsoever against the bank either as demanded in the above reference or otherwise.

Dated this 23rd June, 1987.

For Algemene Bank

| | |
|-------------------|--------------------------|
| Sd/- Illegible. | Sd/- Illegible. |
| Personnel Manager | Advocate for the workman |
| Sd/- Illegible. | Sd/- Illegible. |
| Advocate for Bank | Workman abovenamed |

का. आ. 1958.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय सरकार, मैसर्स ह. सी. बोस एंड कं. (प्रा.) लि. परावीप के प्रबंधनक से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में लिखित श्रीयोगिक विवाद में श्रीयोगिक अधिकरण उड़ीसा के पकाट को प्रकाशित करती है।

S.O. 1958.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Orissa as shown in the Annexure, in the Industrial Dispute between the employers in relation to M/s. E. C. Bose & Co. (P) Ltd., Paradip and their workmen.

INDUSTRIAL TRIBUNAL, ORISSA, BHUBANESWAR
Industrial Dispute Case No. 4 of 1987 (Central)

Dated Bhubaneswar, the 18th June, 1987.

BETWEEN

The Management of M/s. E. C. Bose & Co. (P) Ltd., Stevedores C & F Agents At P.O. Paradip, Cuttack.

First Party,

AND

Their workmen represented by the Jt. Secretary, Paradip Port & Dock Mazdoor Union, Block D, Room No. 36, Vijaya Market, Badapudia, P.O. Paradip, Distt. Cuttack.

Second Party,

APPEARANCES :

None—For both the Parties.

AWARD

1. The matter arises out of a reference made by the Central Government in the Labour Department in exercise of powers conferred under sub-section (5) of Section 12 read with clause (d) of Sub-Section (1) of Section 10 of the Industrial Disputes Act 1947 in their Order No. L-38011/1/86 dated 5th February, 1987 for adjudication of the dispute and answering the reference. The terms of the reference may be quoted below :—

- (i) Whether the demand of the employees of M/s. E. C. Bose and Co. (P) Ltd. for payment of House Rent Allowance is justified? If so, what should be the quantum of the H.R.A. per month?
- (ii) Whether the demand of the employees of M/s. E. C. Bose and Co. (P) Ltd. for extending medical facilities to all the employees and their family members is justified? If so what should be the nature of such facilities?
- (iii) Whether the demand of the workmen of M/s. E. C. Bose & Co. (P) Ltd. for payment of ex-gratia in lieu of bonus to all the employees is justified? If so, what should be the quantum of ex-gratia payments and from what date?"

2. The Union which has raised this dispute did not take any steps to file any statement of claims inspite of due service of notices. In view of the non-appearance of the Union, it can safely be inferred that no dispute subsists between the parties. Hence a no dispute Award is passed, so far as this reference is concerned.

18-6-1987.

R. N. PANDA, Presiding Officer.
[No. L-38011/1/86-D.IV(A)]

का. आ. 1954.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केंद्रीय नरसार, युनाइटेड इंडिया इन्स्योरेन्स क. लि. वालाओं के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में लिखित श्रीयोगिक विवाद में केंद्रीय सरकार श्रीयोगिक अधिकरण बगलौर के पकाट का प्राप्त हुआ था।

S.O. 1959.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the United Insurance Co. Ltd., Bangalore and their workmen which was received by the Central Government on the 7th July, 1987.

BEFORE THE CENTRAL INDUSTRIAL TRIBUNAL AT BANGALORE

Dated the 15th day of June, 1987.

PRESENT :

Shri B. N. Lalge, B.A. (Hons.), LL.B.—Presiding Officer.

Central Reference No. 100/87.

I Party :

Joint Secretary, GIC Employees Union, Southern Zone, C/o New India Assurance Company Ltd., Unity Buildings, Annex Mission Road, Bangalore-27.

Vs

II Party :

The Regional Manager, United Insurance Company Ltd., I Floor, Shankaranarayana Building, 25, M. G. Road, Bangalore-560001.

APPEARANCES :

For the I Party—Joint Secretary of the Union.
For the II Party :

AWARD

The Government of India by its Order No. L-17012/26/86-D IV(A) dated : 1-5-1987 made the present reference on the following points of disputes :

POINTS OF DISPUTE.

"Whether the action of the management of United India Insurance Company is justified in terminating the services of Miss. N. Mangala, Typist, Rajajinagar Branch.

Bangalore w.e.f. 2-3-1986 ? If not, to what relief the workman concerned is entitled ?

2. Before the matter came up for hearing, the Joint Secretary of the GIC Employees Union filed a memo seeking permission to withdraw the reference on the ground that the employee Miss. N. Mangala has been appointed w.e.f. 6-1-1987, and that she has been working. The prayer has been allowed and the reference is closed, for the reason that it has been withdrawn.

B. N. LALGE, Presiding Officer
[N. L-17012/26/86-D. IV(A)]

का आ 1900—श्रीयोगिक विवाद प्रविनियम, 1947 (1947 वा 14) की धारा 17 के अनुसार में, केन्द्रीय सरकार, संडर्लंड भारतीय बैंक, बैंक में प्रबन्धन में रामेश्वरों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट श्रांखिक विवाद में केन्द्रीय सरकार श्रीयोगिक प्रधिकरण से - 1, बैंक के पंचाट का प्रभागित करती है, जो केन्द्रीय सरकार को 3 जूलाई, 1947 को प्राप्त कुआ था।

S.O. 1960.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal, No. 1, Bombay, as shown in the Annexure, in the industrial dispute between the employers in relation to the Standard Chartered Bank, Bombay and their workman, which was received by the Central Government on the 3rd July, 1987.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NO. 1, BOMBAY

REFERENCE NO. CGIT-24 OF 1986

PARTIES :—Employers in relation to Standard Chartered Bank Bombay

AND

their workmen.

APPEARANCES :—

For the Employer.—Mrs. Sarang, Advocate
For the Workman.—Miss D'Souza, Advocate
INDUSTRY.—Banking
STATE.—Maharashtra

Bombay, dated the 12th day of March, 1987

AWARD

The dispute referred to this Tribunal relates to the dismissal from service of the workman, Shri B. K. Sanil, who was working as a Machinist-Clerk in the Bombay Main Branch of the Standard Chartered Bank.

2. Shri Sanil obtained privilege leave from 20th December 1982 to 18th January, 1983 and went abroad. He was expected to resume duty on 19th January, 1983 after the expiry of his leave. But, on his way to London, he was detained at Frankfurt by the West German authorities, because his companion was found carrying Hashish with him and subsequently both were prosecuted. He, therefore, wrote to the Chief Accountant of the Bank explaining the

circumstances in which he was detained and assuring the management that he would rejoin his duty as soon as he was freed. He requested the Chief Accountant to grant him leave and pardon his absence. According to the bank, this letter was received on 21st March, 1983. Meanwhile, as the workman did not join his duty on the expiry of leave, the Accounts Branch addressed a letter to the workman advising him to join his duty on the expiry of leave. As there was no response from the workman, the accounts Branch wrote him again on 4th March, 1983 (Ex-M-1) calling upon him to resume duty within 7 days from the receipt of the said letter and informing him that if he failed to do so, disciplinary action against him would be taken under the provisions of the Bipartite settlement. He was also informed that in the meantime, his absence was being treated as without leave and without pay. Both these letters were sent to the workman's local address at Bombay. Both these letters were received by the workman's wife, who by her letter dated 18th March, 1983 (Ex-M-8) informed the Bank that her husband was out of India and as per her knowledge he was not well, but was likely to return after about 3 weeks.

3. As there was no further communication from Shri Sanil, a departmental enquiry was instituted against the workman and the Accountant Shri P. J. Appanna was appointed Enquiry Officer. The charges levelled against the workman were "engaging in trade outside the scope of duties resulting in overstaying the sanctioned leave constituting a gross misconduct in terms of clauses 19.5(a) read with 19.7(a) of the Bipartite Settlement." The workman was accordingly informed and in reply to the said letter, the workman's wife, who had received that letter, wrote a letter dated 22nd August, 1983 (Ex-M-9), requesting the Accountant, Shri Appanna to defer the action against her husband till his trial by the West German Court was completed. Alongwith that letter, she forwarded a copy of the letter received by her brother from the lawyer who was defending the workman in the West German Court. This request was turned down and hence the workman's wife, by her letter dated 23rd August, 1983 (Ex-M-11) informed the Secretary of the Chartered Bank Employees Union that her husband would not be able to attend personally the enquiry fixed on 25th August, 1983 and authorised the union to represent her husband at the enquiry. Accordingly, the President and the Secretary of the union appeared on behalf of the workman at the enquiry which was held on 25th August, 1983 and 12th September 1983.

4. The enquiry officer on the basis of the documentary evidence produced before him found the workman guilty of misconducts under clauses 19.5(a) and 19.7(a) of the Bipartite Settlement and ruled that the workman be dismissed without notice under para 19.6(a) of the Bipartite Settlement. This order was communicated to the workman by the enquiry officer himself in his capacity as the Accountant vide his letter dated 13th September, 1983 (Ex-M-12). It appears that after the workman received this dismissal order through his wife, he addressed a letter dated 12th October, 1983 (Ex-M-13)

to the Manager, of the Bank for reviewing the disciplinary proceedings held against him by the enquiry officer. The Manager vide his letter (Ex-M-7) dated 23rd December, 1983 informed the workman that he saw no reason to disagree with the findings of the enquiry officer and the resultant order passed against the workman.

5. The trial held in the West German Court against the workman came to an end on 9th January, 1984 and admittedly, he was honourably acquitted by the West German Court. The workman then returned to India in or about January, 1984 and requested the Bank to reinstate him in service. The Bank refused to accede to the demand and hence the workman raised a dispute which was admitted in conciliation. The conciliation proceedings failed and thereafter, the Central Government referred the following dispute to this Tribunal for adjudication.

"Whether the action of the management of Standard Chartered Bank in relation to its Bombay Main Branch in the dismissal of Shri B. K. Sanil, a clerk, from the services of the Bank w.e.f. 12th September, 1983 is justified? If not to what relief the workman concerned is entitled?"

6. Admittedly, enquiry was held in the absence of the workman who was detained in West German Jail, pending his trial by a court in that country. The fact that he was detained by the West German authorities was brought by the workman to the notice of the Chief Accountant by his letter dated 22nd February, 1983, which according to the management was received on 21st March, 1983 long before the departmental proceedings were instituted and knowing fully well that the workman was detained at Frankfurt in West Germany for trial, the management went ahead with the departmental enquiry which was fixed on 25th August, 1983. This letter was also sent at the workman's local address at Bombay. On receiving this letter, the workman's wife by her letter dated 22nd August, 1983 (Ex-M-9) requested the enquiry officer to defer the action contemplated by the management till her husband's trial was over. She also further informed the Enquiry Officer, Shri Appanna as follows :—

"I beg to state that Shri B. K. Sanil is still in the Detention Camp at Frankfurt, West Germany as his trial has not yet started. It is fact that nothing incriminating has been found in the baggage of my husband and he is being detained only on suspicion because he happened to travel with his friend who turned out to be a criminal. Trial of my husband is likely to be in the month of October, 1983 as per the letter received from his lawyer from Germany by my brother Shri Shridhar D. Salian. A copy of the letter is enclosed for your reference. The lawyer wants my brother to appear as a defence witness as he had been to the Airport to see my husband off and has watched the checking in."

7. A copy of the letter written by the workman's lawyer to Shri Salian is at Exhibit M-10. In that letter, the lawyer who appeared for the workman in the West German Court had specifically mentioned that the trial against Mr. Sanil would be held in October, 1983. There was therefore, no justification for going ahead with the departmental enquiry.

8. It is true that the President and the Secretary of the Chartered Bank Employees Union appeared for the workman in the departmental enquiry, but that was not at the instance of the workman himself, but at the request of the workman's wife, who obviously must have become panicky on finding that the management was not prepared to postpone the enquiry till her husband's trial in West German Court was over. It will also be seen from the enquiry papers that the union office bearers did not do anything except requesting the enquiry officer to postpone the enquiry upto October, 1983, the probable date when the trial of the workman was to open. The attitude of the Enquiry Officer in refusing to postpone the enquiry was absolutely unreasonable and resulted in denial of proper opportunity to the workman to defend himself. The letter received by Shri Salian from the workman's advocate clearly showed that the Lawyer expected the trial to commence in October, 1983.

9. Shri Rele, the learned advocate for the bank contended that there was no obligation on the management to issue a charge-sheet and to hold an enquiry and that the management could have terminated the services of the workman for overstaying the sanctioned leave. In support of this proposition, reliance is sought to be placed on the decision of the Supreme Court in Burn & Co. Ltd. and its employees (1957) I LLJ p. 226). In that case one of the employees by name Ashimananda Banerjee was arrested by the Government under the West Bengal Security Act and detained in Jail from 25th January, 49 to 5th April, 1951. The Company terminated his services on 22nd April, 1949. The Tribunal made an order that he should be re-employed. That order was not challenged by the management. But the workman claimed that he was entitled to be reinstated and that his claim was accepted by the Appellate Tribunal, on the ground that the workman was discharged without the company framing a charge or holding an enquiry and that the rules of natural justice had been violated. Their Lordships of the Supreme Court disagreed with the decision and held that the order of the Appellate Tribunal was manifestly erroneous and deserved to be set aside. Their Lordship gave the following reasons for setting aside the order of the Appellate Tribunal.

"The ground of discharge is the continued absence of the employee, and his inability to do work, and it is difficult to see what purpose would be served by a formal charge being delivered to him and what conceivable answer he could give thereto."

10. Another decision on which Shri Rele placed reliance in support of his proposition is the one in the case between Indian Iron & Steel Company Ltd. and another and Their workmen (1958-I-LIJ-p. 260). In that case, some of the workmen who were taken in the police custody in connection with criminal prosecution against them, applied for leave which was refused by the management. The services of such workmen were terminated for remaining absent without permission for 14 consecutive days. The Industrial Tribunal and the Appellate Tribunal held that absence of the workmen was justified. In appeal, the Supreme Court applied the same principle which was laid down in Burn & Co. Ltd. and their employees (citation supra). Shri Rele laid particular emphasis on the following observation made by Their Lordship in setting aside the order of the two Tribunals.

"It is true that the arrested men were not in a position to come to their work, because they had been arrested by the police. This may be unfortunate for them; but it would be unjust to hold that in such circumstances the company must always give leave when an application for leave is made. If a large number of workmen are arrested by the authorities in charge of law and order by reason of their questionable activities in connection with a labour dispute (as in this case), the work of the company will be paralysed if the company is forced to give leave to all of them for a more or less indefinite period. Such a principle will not be just; nor will it restore harmony between labour and capital or ensure normal flow of production. It is immaterial whether the charges on which the workman arrested by the police are ultimately proved or not in a court of law. The company must carry on its work and may find it impossible to do if a large number of workmen are absent. Whether in such circumstances leave should be granted or not must be left to the discretion of the employer."

11. It is however, pertinent to note that Their Lordship upheld the action of the management in refusing the leave in the context of the fact that a large body of workers who were arrested by the authorities, by reason of their questionable activity in connection with a labour dispute, had asked for leave, for a more or less indefinite period, thus paralysing the work of the company. Their Lordships did not hold that absence of a workman on account of his arrest by the Police can never be a valid ground for granting leave and the management would always be justified in refusing leave in such cases. What Their Lordship held is that whether in such circumstances leave should be granted or not must be left to the discretion of the employer. It will therefore, always be open to the workman to point out that exercise of the discretion by the management was arbitrary and unreasonable. Moreover, that was a case in which there was a provision in the Standing Orders of the company which empowered the management to dismiss a workmen for absence

beyond 14 consecutive days without permission. It is in exercise of this power that the workers in that case were discharged. There is no such provision in the Bipartite Settlement, by which the Bank employees are governed. Absence without leave or overstaying the sanctioned leave without sufficient ground is considered as a minor misconduct and no punishment, even for a misconduct can be inflicted on the workman, without following the procedure prescribed in para 19.12 of the First Bipartite Settlement dated 19-10-1966. Hence, even in respect of the charge of overstaying sanctioned leave, an enquiry was necessary.

12. It is also pertinent to note that even after holding an enquiry in respect of the charge of overstaying sanctioned leave, the management could not have either dismissed or discharged the workman, because as mentioned above, absence without leave or overstaying the sanctioned leave without sufficient grounds is one of the minor misconduct which are enumerated in para 19.7 of the First Bipartite Settlement, for which punishment is prescribed in para 19.8. As laid down in the said provision, an employee found guilty of minor misconduct may—(a) be warned or censured; (b) have adverse remark entered against him; and (c) have his increment stopped for a period not longer than six months. No other punishment, much less dismissal or discharge can be inflicted on a workman who is found guilty of a minor misconduct. The Bank, therefore could not have dismissed or discharged the workman in this case, for the misconduct of overstaying the sanctioned leave, apart from the fact that his unjustified detention in West German prison can be considered to be a sufficient ground which prevented him from reporting for duty on the expiry of his leave.

13. No evidence was led by the management to prove the misconduct of engaging in trade outside the scope of duties. The management preferred to rely on the documentary evidence produced on record and stated in writing that it did not want to lead any oral evidence to prove the charge. The only document on which the charge is based and reliance is placed in proof of that charge is that letter (Exhibit M-4) dated 22nd February, 1983 written by the workman from the West German jail. According to the management, this letter contains a specific admission that the workman was engaging in business while in the service of the Bank. This is what the workman informed the Chief Accountant by his aforesaid letter Exhibit M-4.—

"I have to inform you that I had taken one month's leave starting from 20th December 1982, with a view of visiting Europe on holiday-cum-exploring market for export business."

14. Except this statement, there is absolutely no other evidence to show that the workman was actually engaged in carrying on any business while in the service of the Bank.

15. The misconduct complained of is one falling under Clause (a) of para 19.5 of the First Bipartite Settlement. In this para, gross misconducts are enumerated and clause (a) of the said paragraph reads as follows :—

"(a) engaging in any trade or business outside the scope of his duties except with the written permission of the bank,"

16. Mrs. D'souza, the learned advocate for the workman contended and in my view rightly that merely exploring foreign market for export business does not necessarily amount to engaging in trade or business. The workman was on leave and perhaps wanted to utilise his visit to Europe for exploring market for export business. If perhaps he would have found that there was good scope for export business, he would have embarked upon the adventure and in that event and only then, he could have been said to have engaged in business. He did not reach that stage. In fact, he had not even decided to start an export business, much less made preparations for it. He would have been guilty of the misconduct complained of only if he had actually commenced the business. Merely exploring market for export business cannot be, by any stretch of imagination, deemed to be engaging in business. There is absolutely nothing else on record to show that he had already started an export business. He could have started such a business while in service and it is only then that conduct would have attracted clause (a) of para 19(5) of the Bipartite Settlement. If he would have found that there was good scope for export business, he would have left the employment and started such a business. At any rate, till he embarked on such a business, there was no question of engaging in any trade or business while in service. Thus, the charge for grave misconduct of engaging in trade outside the scope of his duties must fail. As observed by me above, the workman could not have been dismissed or discharged for the minor misconduct of overstaying leave. In the result therefore, the dismissal of the workman from service must be quashed.

17. It was vehemently urged on behalf of the Bank that the workman should not be reinstated because the Bank has lost confidence in him. There is no substance in this submission because there was no plausible and valid reason for the Bank to lose confidence in the workman. Overstaying sanctioned leave on account of unjustified detention in a foreign land can not be a cause for loss of confidence. Moreover, even though the workman was detained by West German authorities on suspicion that he was engaged in smuggling of Hashish, he was honourably acquitted by the West German Court, as nothing incriminating was admittedly found in his possession. The workman therefore, can not be suspected to be engaged in nefarious activities and hence the bank can have no reason for losing confidence in him. The relief of reinstatement which must ordinarily follow quashing of the dismissal order, must be given to the workman.

18. The workman will also be entitled to back-wages, except for the period during which he was detained in West German prison and till he returned to India. Admittedly, the workman returned to India sometime in January, 1984, after he was quitted by the West German Court. He could not have, therefore, attended his duty till the end of January,

1984, even if no departmental enquiry would have been instituted against him. Hence the period till the end of January, 1984 will have to be treated as leave without pay and the workman would not be entitled to be compensated for that period

19. In the result, it is declared that the action of the management of the Standard Chartered Bank in relation to its Bombay Main Branch in the dismissal of Shri B. K. Sanil, with effect from 12th September, 1983 was absolutely unjustified and illegal. Consequently, the management of Standard Chartered Bank is directed to reinstate the workman, Shri B. K. Sanil with immediate effect with continuity of service and to pay him backwages with all incidental service benefits from 1st February, 1984 till the date of actual reinstatement within one month from the publication of this award.

20. Award accordingly.

M. S. JAMDAR, Presiding Officer
[No. I-12012/3/86-D.IV(A)]
K. J. DYVA PRASAD, Desk Officer

नई दिल्ली, २३ जुलाई, १९८७

का. आ 1961.—श्रीयोगिक विशद अधिनियम, 1947 (1947 वा 14) की घारा 17 के प्रत्यरूप में, केन्द्रीय सूचकार, भारतीय खाद्य निगम पंजाब के प्रबंधनवाले में सम्बद्ध विशेषका और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट श्रीयोगिक विशद में केन्द्रीय सूचकार श्रीयोगिक प्रधिकरण, चंडीगढ़ के प्रबंधन को प्रकाशित करते हैं, जो केन्द्रीय सूचकार का 6 अक्टूबर, 1987 को प्राप्त हुआ था।

New Delhi, the 23rd July, 1987

S.O. 1961.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal Chandigarh, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India, Punjab and their workmen, which was received by the Central Government on the 6th July, 1987.

BEFORE SHRI M. K. BANSAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHANDIGARH

Case No. I. D. 64/85.

PARTIES :

Employers in relation to the management of Food Corporation of India, Punjab.

AND

Their workman : Gulzar Singh.

APPEARANCES :

For the workman : Shri O. P. Mehta.

For the employers : Shri M. P. Vasudeva.

AWARD

Central Government vide Notification No. L-42012 (40)/84-D.V. dated 30-3-1985 issued under Section 10(1)(d) of the Industrial Disputes Act 1947,

referred to this Tribunal for decision the following dispute.

"Whether the action of the management of Food Corporation of India, in terminating the services of Shri Gulzar Singh, Ex-watchman is just and legal ? If no, to what relief is the workman entitled to and from what date ?"

2. The case of the workman is that he was working with the FCI at Jagroan on daily wages @12-40 paise per day. That he has worked for more than one year continuously without any break in service against permanent post. That services of the workman have been terminated on 2-5-83 without payment of any retrenchment compensation. That in place of workman some other person as watchman have been recruited. So it was alleged that termination of his service is bad. He claimed reinstatement with back wages.

3. The management in their reply alleged that reference is not tenable being illegal. That workman has not worked with FCI. That his claim is liable to be dismissed. In support of their respective allegation both the parties placed affidavit and some documents were placed.

4. Workman also appeared as WW1. He stated in cross-examination that Home Guard is not his parent department. That he was directly recruited and was not on loan with FCI. There was no cross-examination on the workman to show that he never worked with FCI for about 240 days during one calendar year.

5. FCI examine Shri C. K. Oberoi Asstt. Manager who proved his affidavit M1. In the same it was stated that workman was the employee of Home Guard and taken on loan to guard the property of the FCI store in open. That in 1982 the policy of storing the goods in the open was done away with. That workman was reverted to his parent department. That workman has worked for 199 days from April 1982 to December 1982 and for 88 days from January 1983 to May 1983. In cross-examination this witness admitted that as service of the workman were not terminated by FCI, so question of retrenchment compensation does not arise.

6. Representative of the management contended before me that as workman was on deputation with the FCI so he was not entitled to retrenchment compensation. I am of the view that this argument is not correct. This plea was not specifically raised in reply. The workman had stated that he was never employed in the Home Guard. That he was directly recruited by the FCI. But the FCI to prove the above fact placed reliance on the affidavit as well as letter alleged to be received by the FCI from one Rakinder Singh where he said that persons detailed in the list are being sent for guarding the stock of FCI. Even if this letter is admitted as correct it will show that member of Home Guard were sent to FCI to guard their stock. These persons were paid by

the FCI. FCI used to mark their attendance. Control over them was of FCI. So they become employees of the FCI for all intents and purposes.

7. On behalf of the workman 1986 (i) SLR 641 Food Corporation of India vs. Presiding Officer Industrial Tribunal (Central Govt.) Chandigarh an another an authority of Punjab & Haryana High Court has been cited. In the above authority workman who were member of the Home Guard, came to FCI to gurd their stock. Their services were terminated. Question arose whether they have a right to get their services regularised or not. In the High Court the matter was decided on the basis of concessions made by counsel for FCI wherein he agreed that services will only be terminated by the management in accordance with law and for all intents and purposes they will be treated at par with regular employees (watchman of the Corporation).

8. The second authority is of CWP No. 843/85 decided on 8-5-1985 by our own High Court in case Re : FCI vs. Presiding Officer Industrial Tribunal cum Labour Court (Central) Sector-17, Chandigarh. In the above case also workmen were member of Home Guard and were on deputation with the Corporation. It was held by Their Lordships that question whether services of workmen could be terminated without payment of compensation is a debatable point and this point can only be decided in reference. As in the present case there was no reference so that point was no gone into. The above two cases shows that workmen were employees of the FCI.

9. Now the next point to be determined is whether he worked for 240 days in one calender year or not? It is admitted that employees worked with the FCI from April 1982 to May 1983 for total number of 287 days. The question to be determined is whether from April 1982 to March 1983 the worker worked for 240 days or not. This fact cold have been proved by the FCI by producing their attendance register, by producing wage payment register to show that wages paid to the above worker for the actual working days was less than 240 days. In the absence of the above record being produced, a presumption will be drawn that the above person worked with the FCI for 240-days during the period from 1-4-1982 to 31-3-1983. It will also show from 1-4-1982 to become regular employee of the FCI. As their services were terminated without payment of any retrenchment compensation so termination is void.

10. As a result of my above finding it is held that termination of the services of the workman vide order dated 2-5-1983 is void. Workman is entitled to re-instatement in service with continuity in service and back wages. Accordingly the reference is answered in favour of the workman.

Chandigarh.

23-6-87.

M. K. BANSAL, Presiding Officer
[No. L-42012/40/84-D.V]
HARI SINGH, Desk Officer

